

By Representative Logan

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; requiring the Public Service
17 Commission to order wireless providers to
18 collect a monthly fee for certain 911 telephone
19 service; providing a rate; providing for
20 adjusting the rate; exempting the fee from
21 state and local taxes; prohibiting local
22 governments from imposing additional fees
23 related to such service; providing procedures
24 for collecting the fee and remitting the fee to
25 the board; providing criteria for provision of
26 certain services; prohibiting certain
27 activities relating to wireless 911 telephone
28 service; providing penalties; providing that
29 the act does not preempt other laws that
30 regulate providers of telecommunications
31 service; providing an effective date.

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
9 Legislature finds and declares that:

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

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

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

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

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

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

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

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

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

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

17 (3) DEFINITIONS.--As used in this section and ss.
18 365.173 and 365.174, the term:

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

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

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

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

- 1 (e) "Department" means the Department of Management
2 Services.
- 3 (f) "E911" is the designation for a wireless enhanced
4 911 system or wireless enhanced 911 service that is an
5 emergency telephone system or service that provides a
6 subscriber with wireless 911 service and, in addition, directs
7 911 calls to appropriate public safety answering points by
8 selective routing based on the geographical location from
9 which the call originated, or as otherwise provided in the
10 state plan under s. 365.171, and that provides for automatic
11 number identification and automatic location-identification
12 features in accordance with the requirements of the order.
- 13 (g) "Fee" means the E911 fee imposed under subsection
14 (8).
- 15 (h) "Fund" means the Wireless Emergency Telephone
16 System Fund established in s. 365.173 and maintained under
17 this section for the purpose of recovering the costs
18 associated with providing 911 service or E911 service,
19 including the costs of implementing the order.
- 20 (i) "Local exchange carrier" means an "alternative
21 local exchange telecommunications company" or a "local
22 exchange telecommunications company" as defined in s. 364.02.
- 23 (j) "Local government" means any municipality, county,
24 or political subdivision or agency of a municipality, county,
25 or political subdivision.
- 26 (k) "Order" means the order of the Federal
27 Communications Commission, FCC Docket No. 94-102, subsequently
28 adopted orders relating to the provision of wireless 911
29 services, and rules adopted by the Federal Communications
30 Commission related to such orders.
- 31

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 municipality, county, municipal corporation, or other
8 governmental entity, public district, or public authority
9 located in whole or in part within this state which provides,
10 or has authority to provide, firefighting, law enforcement,
11 ambulance, medical, or other emergency services.

12 (n) "Public safety agency" means a functional division
13 of a public agency which provides firefighting, law
14 enforcement, medical, or other emergency services.

15 (o) "Rural county" means any county that has a
16 population of fewer than 75,000.

17 (p) "Service" means "commercial mobile radio service"
18 as provided under ss. 3(27) and 332(d) of the Federal
19 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,
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 includes the term "wireless" and service provided by any
23 wireless real-time two-way wire communication device,
24 including radio-telephone communications used in cellular
25 telephone service; personal communications service; or the
26 functional or competitive equivalent of a radio-telephone
27 communications line used in cellular telephone service, a
28 personal communications service, or a network radio access
29 line. The term does not include wireless providers that offer
30 mainly dispatch service in a more localized, noncellular
31 configuration; providers offering only data, one-way, or

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) Based upon the budget developed annually by the
6 board, as appropriated by the Legislature, the Public Service
7 Commission shall order wireless providers to collect an amount
8 sufficient to fund the annual appropriation. The rate of the
9 fee shall not exceed 50 cents per month per each service
10 number, beginning August 1, 1999. Each provider, as ordered
11 by the commission, shall collect such monthly fee imposed on
12 each service subscriber who has a service number that has a
13 billing address within this state. The fee shall apply
14 uniformly and be imposed throughout the state.

15 (b) Each provider shall register with the commission
16 in a manner adopted by the commission to provide data to the
17 commission as necessary for the commission to determine the
18 annual level of the surcharge and shall collect the fees in
19 the manner ordered by the commission and consistent with this
20 section. The commission may adopt limited rules for the
21 purpose of obtaining information needed to compute the
22 surcharge amount.

23 (c) The fee is established to ensure full recovery for
24 providers and for counties, over a reasonable period, of the
25 costs associated with developing and maintaining an E911
26 system on a technologically and competitively neutral basis.

27 (d) After July 1, 2001, the board may adjust the
28 allocation percentages provided in s. 365.173 or recommend to
29 the commission a reduction of the amount of the fee, or both,
30 if necessary to ensure full cost recovery or prevent over
31 recovery of costs incurred in the provision of E911 service,

1 including costs incurred or projected to be incurred to comply
2 with the order. Any new allocation percentages or reduced fee
3 may not be adjusted for 2 years. The fee may not exceed 50
4 cents per month per each service number.

5 (e) State and local taxes do not apply to the fee.

6 (f) A local government may not levy any additional fee
7 on wireless providers or subscribers for the provision of E911
8 service.

9 (9) MANAGEMENT OF FUNDS.--

10 (a) Each provider, as a part of its monthly billing
11 process, shall collect the fee imposed under subsection (8).
12 The provider may list the fee as a separate entry on each
13 bill, in which case the fee must be identified as a fee for
14 E911 services. A provider shall remit the fee only if the fee
15 is paid by the subscriber. If a provider receives a partial
16 payment for a monthly bill from a subscriber, the amount
17 received shall first be applied to the payment due the
18 provider for the provision of telecommunications service.

19 (b) A provider is not obligated to take any legal
20 action to enforce collection of the fees for which any
21 subscriber is billed. The provider shall provide to the board
22 each quarter a list of the names, addresses, and service
23 numbers of all subscribers who have indicated to the provider
24 their refusal to pay the fee.

25 (c) Each provider may retain 1 percent of the amount
26 of the fees collected as reimbursement for the administrative
27 costs incurred by the provider to bill, collect, and remit the
28 fee. The remainder shall be delivered to the board and
29 deposited in the fund. The board shall distribute the
30 remainder pursuant to s. 365.173.

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1 (d) Each provider shall deliver revenues from the fee
2 to the board within 60 days after the end of the month in
3 which the fee was billed, together with a monthly report of
4 the number of billing addresses of wireless subscribers in
5 each county. A provider may apply to the board for a refund
6 of, or may take a credit for, any fees remitted to the board
7 which are not collected by the provider within 6 months
8 following the month in which the fees are charged off for
9 federal income tax purposes as bad debt. The board may waive
10 the requirement that the fees and number of billing addresses
11 be submitted to the board each month and authorize a provider
12 to submit the fees and number of billing addresses quarterly
13 if the provider demonstrates that such waiver is necessary and
14 justified.

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

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

21 (a) The provider receives a request in writing for
22 such service from the county 911 coordinator and the affected
23 answering point is capable of receiving and using the data
24 elements associated with the service.

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

26 (c) The local exchange carrier is able to support the
27 E911 system.

28 (d) The service area has been scheduled for
29 implementation of E911 service by the board pursuant to
30 subparagraph (6)(a)3. If a county's 911 coordinator requests
31 E911 service from a provider, the coordinator shall also

1 request E911 service from all other providers in the area in a
2 nondiscriminatory and fair manner.

3 (11) MISUSE OF WIRELESS 911 SYSTEM; PENALTY.--E911
4 service must be used solely for emergency communications by
5 the public. Any person who knowingly uses or attempts to use
6 such service for a purpose other than obtaining public safety
7 assistance, or who knowingly uses or attempts to use such
8 service in an effort to avoid any charge for service, commits
9 a misdemeanor of the first degree, punishable as provided in
10 s. 775.082 or s. 775.083. After being convicted of
11 unauthorized use of such service four times, a person who
12 continues to engage in such unauthorized use commits a felony
13 of the third degree, punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084. In addition, if the value of the
15 service or the service charge obtained in a manner prohibited
16 by this subsection exceeds \$100, the person committing the
17 offense commits a felony of the third degree, punishable as
18 provided in s. 775.082, s. 775.083, or s. 775.084.

19 (12) STATE LAW NOT PREEMPTED.--This section and ss.
20 365.173 and 365.174 do not alter any state law that otherwise
21 regulates providers of telecommunications service.

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

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25 LEGISLATIVE SUMMARY

26
27 Creates the "Wireless Emergency Communications Act."
28 Establishes the Wireless 911 Board to administer the
29 Wireless Emergency Telephone System Fund. Requires the
30 Public Service Commission to order wireless providers to
31 collect a monthly fee of up to 50 cents per month per
service number to fund the provision of wireless
emergency 911 service. Authorizes the board to adjust the
allocation of proceeds from the fee or to reduce the fee.
Prohibits misuse of wireless emergency 911 service and
provides penalties. See bill for details.