

**STORAGE NAME:** h0621a.ft

**DATE:** April 5, 1999

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE COMMITTEE ON  
FINANCE AND TAXATION  
ANALYSIS**

**BILL #:** HB 621

**RELATING TO:** Wireless Emergency 911 Telephone Service

**SPONSOR(S):** Representatives Logan and Maygarden and others

**COMPANION BILL(S):** SB 178 (identical), HB 499 (similar), HB 511 (compare), HB 513 (compare), SB 180 (compare), and SB 182 (compare)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
  - (2) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 1
  - (3) UTILITIES AND COMMUNICATIONS YEAS 9 NAYS 1
  - (4) FINANCE AND TAXATION
  - (5) GENERAL GOVERNMENT APPROPRIATIONS
- 

**I. SUMMARY:**

The bill creates the "Wireless Emergency Communications Act" and establishes the Wireless 911 Board to administer the Wireless Emergency Telephone System. The bill imposes a monthly fee of up to 50 cents per month per service number to fund the provision of wireless emergency 911 service. The bill authorizes the board to adjust the allocation of the proceeds from the fee or to reduce the fee. The bill prohibits misuse of wireless emergency 911 service and provides penalties.

The estimated revenue for the fee is \$18.9 million for FY 1999-2000, and \$30.6 million for FY 2000-2001.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In October 1998, the Senate Committee on Community Affairs (now Comprehensive Planning, Local and Military Affairs) completed a review of the Federal Communications Commission's (FCC) required improvements to the states' 911 emergency telephone systems. The *Florida Senate Interim Project Report 98-12* provides the following information:

- The increase in the number of wireless communication is significantly impacting 911 services;
- Wireline calls in many rural counties and wireless calls throughout the state do not have access to Enhanced 911 (E911) services, which allows for automatic number and location identification services;
- The FCC may require 911 service providers and wireless communication companies to make policy changes and resulting technology upgrades to provide E911 services for all wireless phone calls made to 911 systems;
- There are potentially significant capital and operating costs to implement the FCC's requirements;
- Current revenues for financing 911 services are inadequate to fund the implementation of these new requirements;
- The wireless industry, representatives for the county 911 coordinators and county commissions, and state officials with oversight responsibilities for 911 systems have agreed upon a statutory solution; and
- At least 28 other states have imposed a 911 fee on wireless subscribers to fund the FCC required upgrades.

In response, committee staff recommended that the Legislature enact the Florida Wireless Emergency Communications Act, which:

- Establishes a 50 cent monthly fee on each wireless service subscriber in this state; fee proceeds will be used to fund the capital and operating costs incurred by wireless providers and county 911 systems in developing and maintaining an E911 system;
- Creates the Florida Wireless 911 Advisory Board to administer the fee and oversee the proposed Wireless Emergency Telephone System Trust Fund; and
- Requires the board to submit a report to the Governor and Legislature that outlines trust fund expenditures and recommends, if necessary, adjustments to the levy or distribution of the fee.

**Current 911 System**

The Florida Emergency Telephone Act, pursuant to s. 365.171, F.S., establishes and implements a statewide emergency telephone number system, administered through the counties, to provide citizens with rapid direct access to public safety agencies by dialing the telephone number "911." Use of this system reduces the response time to situations requiring law enforcement, fire, medical, rescue and other emergency services.

Most counties have implemented "Enhanced" 911 systems (E911), which provide dispatchers with automatic "callback" number and location identification services for wireline phone calls. However, many rural counties have not implemented E911 because they lack the resources to purchase and operate such systems.

While basic 911 services are available for wireless communications, E911 services are unavailable for wireless systems because the technology to send and receive the information has not been implemented or has not been developed.

County 911 systems are funded by a monthly fee of up to 50 cents per subscriber on local wireline exchanges. Most counties also use general revenue to subsidize 911 systems operating and capital costs. In some cases, State General Revenue has been allocated to select under-funded rural 911 systems. The statutes do not authorize the imposition of the fee upon wireless communications subscribers.

### **Wireless 911 Calls**

The use of wireless communication significantly impacts 911 services. Industry and local government sources estimate that:

- At least 25% of 911 calls are made from wireless telephones;
- 911 dispatchers across the nation are getting about 50,000 911 calls every day from among 42 million wireless customers;
- County 911 officials note that wireless calls can take 2.5 times longer to process than E911 calls; and
- The Cellular Telecommunications Industry Association (CTIA) reports that 67% of wireless subscribers report safety reasons as a primary reason for buying cellular service.

The use of wireless communication services is growing:

- Industry sources estimate that in 1998, there are approximately 3 million subscribers in Florida, with 30,000 new wireless subscribers added nationwide every day;
- A recent survey found that 16% of responding cellular customers are currently using their wireless phones as a replacement for a land line or instead of a second telephone line.
- The Department of Management Services (DMS) report estimates that by 2004, more than 50% of all telephone numbers will likely be assigned to wireless telephones.

DMS officials with oversight responsibilities for the 911 system are concerned that the relative decline in wirelines will result in less 911 surcharge revenues, thus jeopardizing the financing of an expanding system.

This projected financial strain is exacerbated by new Federal Communications Commission (FCC) requirements to provide E911 services to wireless communications subscribers. In developing these new requirements, the FCC reasoned that the increase in use of wireless communications and the public's safety expectations compel the FCC to impose this mandate on wireless providers and 911 Public Service Answering Points (PSAPs are public safety agencies that receive incoming 911 calls and dispatch appropriate public safety agencies to respond).

### **Memorandum Opinion and Order FCC 97-402**

In June 1996, the Federal Communications Commission (FCC) adopted a rule requiring wireless carriers -- which includes cellular, broadband Personal Communications Service (PCS), and similar Special Mobile Radios (SMRs) -- to implement 911 and Enhanced 911 (E911) services. In December 1997, the FCC amended the rule, which specifies the following:

- By October 1, 1997, wireless carriers must process and transmit to an appropriate PSAP all 911 calls from wireless handsets, without regard to validation procedures and regardless of code identification.
- By October 1, 1997, carriers must also be capable of transmitting 911 calls made by persons with disabilities, *e.g.*, through use of text telephone equipment (TT), or telecommunications devices for the deaf (TDD). However, the FCC temporarily suspended enforcement of the requirement until October 1, 1998, for digital systems, subject to a notification requirement.
- Phase I:** By October 1, 1997, carriers must have initiated actions necessary to relay a caller's Automatic Number Identification (ANI) and the location of the cell site receiving a 911 call. These capabilities are designed to allow the PSAP to call back the phone placing the 911 call if disconnected, and help identify the approximate location of the caller.
- Phase II:** By October 1, 2002, carriers are required to have the capability to identify the latitude and longitude of the mobile units making 911 calls within a radius of no more than 125 meters, using Root Mean Square calculations (which roughly equate to success rates of approximately 67 percent).
- Phase I and II upgrades are required only if the carrier receives a request for such services from a PSAP capable of receiving and using the service, and only if a cost recovery mechanism relating to the provision of such services is in place.
- Wireless providers have six months after the request from the PSAP to implement requested changes.

### **The Status of Phase I and II Technology**

Industry and County 911 Coordinators report that the technology to implement Phase I of the FCC's requirement is generally available. According to a recent survey of county 911 coordinators, twelve counties have installed Phase I equipment and are ready to receive ANI and cell tower identification information from wireless providers. Twenty-three other counties have at least 1 PSAP Phase I ready.

As for Phase II, new technologies are being developed and field-tested at this time:

- The wireless industry is conducting field-tests of "time difference of arrival" technology, which measures the time for the cellular signal to be received at multiple cell towers, thereby estimating the relative distance and direction of the signal from each tower.
- In Denver, Colorado, 911 providers are testing Global Positioning Satellite (GPS) technology in cell phones. Reportedly, a computer chip enabling this technology can be installed for \$5-8 per phone.
- Celltrax Inc. of Melbourne, Florida, is piloting a "time difference of arrival" project which operates independently from the wireless providers. This technology would allow a single state-wide E911 Phase II service through a single contractor, thereby standardizing the transmission of information to PSAPs and simplifying the coordination of service. The field test results are scheduled to be available in 1999.

California, Texas, New Jersey, Oregon, and Vermont may be currently pursuing "single contractor" Phase II solutions.

### **Estimating Implementation and Operating Costs**

Both the wireless industry and local PSAPs will incur implementation costs for Phase I and II. The FCC estimates a nation-wide cost of \$5-10 billion nationwide. Individual costs for wireless providers or PSAPs may differ significantly. Statewide costs projections are difficult to obtain for a number of reasons:

- The wireless industry and PSAPs use a variety of different systems;
- Some PSAPs will have higher upgrading costs because they must address the "Y2K" problem or must expand to 10+ digit dialing; these upgrades are necessary to accommodate the FCC requirements;
- Service delivery standards have not been developed; and
- New technologies for Phase II are being developed and field-tested at this time.

### **Costs to Counties**

To implement Phase I, each PSAP will need 10 digit dialing capacity, a dedicated trunk for wireless 911 calls, and upgraded call handling equipment. To implement Phase II, each PSAP will need an integrated geographic mapping system and related equipment to receive location information. Some counties have already purchased and implemented Phase I technologies. All PSAPs will incur the operating and maintenance costs of these technologies.

The Senate Committee on Community Affairs surveyed the 67 County 911 Coordinators to identify the present funding status and projected costs to implement Phase I and II of the FCC's requirements. Fifty-one counties responded to the survey, for a seventy-six percent response rate. According to our survey:

- 23 counties have at least 1 PSAP that is now Phase I capable;
- All PSAPs in Collier, Duval, Lake, Orange, and Osceola counties have implemented Phase I technology, spending an estimated \$1.5 million; and
- 28 counties representing 61% of the state population project it will cost \$11.2 million to obtain the technology necessary to implement Phase I, and \$2.8 million annually to operate these systems.

Reliable estimates of the cost to implement Phase II are unavailable.

### **Current Status of 911 Funding**

The Senate survey also asked County 911 Coordinators to provide present budget information pertaining to their 911 systems. The survey reveals that:

- Many expenses for the county 911 systems may not be included in the county's 911 budget (such as call-takers salaries and benefits, and facilities expenses);
- Many counties have recently invested significant capital to upgrade their 911 systems with Phase I technology;
- 39 of the 51 responding counties levy the maximum 911 fee currently authorized by s. 365.171, F.S.; and
- Less populated counties have higher per capita operating costs than the other counties.

**Costs to the Wireless Industry**

911 calls from cellular phones can be transmitted to the PSAPs in one of two ways: by the wireless provider or by an entity contracted to forward all 911 calls from selected towers in the state.

Cost estimates for the first option are incomplete. AT&T Wireless estimates it will cost their companies 25 cents per month per customer to implement and operate Phase I systems. Industry sources report that a wireless provider in Colorado provides these services for an estimated 18.5 cents per month per customer. As for Phase II, one county reports that their local wireless provider estimates that it will cost \$50,000 per cell tower face for location technologies.

Cost estimates for transmission of all 911 calls by a single contractor across the state are unavailable.

At least twenty-eight other states have imposed fees on wireless services to fund upgrades in E911 services.

**B. EFFECT OF PROPOSED CHANGES:**

The bill provides the legislative findings, purpose, and intent of the act. The bill provides the definitions used in the act. The bill provides the duties of the Department of Management Services.

The bill creates the Wireless 911 Board, as follows:

- Provides duties and membership of the board;
- Requires the board to report to the Governor and the Legislature each year;
- Requires completion of a study for submission to the Governor and Legislature;
- Requires the board to retain an independent accounting firm for certain purposes and provides a process for firm selection;
- Imposes a monthly fee for certain 911 telephone service, a rate for the monthly service, and a process for adjusting the rate;
- Provides for exempting the fee from state and local taxes;
- Prohibits local governments from imposing additional fees related to the service;
- Provides procedures for collecting the fee and remitting the fee to the board;
- Provides criteria for the provision of certain services;
- Prohibits certain activities relating to wireless 911 telephone service;
- Provides penalties; and
- Provides that the act does not preempt other laws that regulate providers of telecommunications services.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. The Wireless 911 Board is authorized to adopt rules under ss. 120.54 and 120.536 (1), F.S., to implement sections 365.172, 365.173, and 365.174, F.S.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Subsection 365.172 (4), F.S., authorizes DMS to oversee the administration of the fee imposed on subscribers of statewide E911 service.

Subsection 365.172 (5), F.S., specifies the powers and duties of the Wireless 911 Board to include receiving revenues, accounting for receipts, providing annual reports, disbursing funds collected to wireless providers and counties, etc. (For additional information regarding the powers and duties of the Wireless 911 Board, see Part II. E. Section-by-Section Analysis.)

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

An agency or program is not eliminated or reduced.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

Yes. The bill authorizes an E911 fee of 50 cents per month per service number to be imposed on each wireless service subscriber who has a service number and billing address in this state.

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. The subscribers of wireless services will pay a fee of 50 cents per service number to support the implementation of this enhanced emergency system which addresses the specific emergency service needs of the growing number of such wireless subscribers.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

The bill does not purport to provide services to families of children.

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Creates s. 365.172, F.S.

E. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Creates section 365.172, F.S., which creates the Wireless emergency telephone number "E911" and provides for the following:

- Providing that the act may be cited as the "Wireless Emergency Communications Act."
- Providing the findings and purpose of the act as follows:
  - Recognizing that the mobile nature of wireless communications creates complexities for providing 911 emergency services;
  - Recognizing that wireless telephone service providers are required by the Federal Communications Commission (FCC) to provide wireless enhanced (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 FCC.
  - Recognizing that 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 FCC and to maximize the availability of E911 services throughout the state.
  - Recognizing that 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 (DMS), and commercial mobile radio service providers to improve the public health, safety, and welfare and serve a public purpose by providing emergency telephone assistance through wireless communications.
  - Recognizing that it is necessary and beneficial to levy a fee on wireless services and to create the Wireless 911 Board to administer the fee.



- Providing the legislative intent of the act as follows:
  - Establishing and implementing 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."
  - Providing 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.
  - Levying a reasonable fee on subscribers of wireless telephone service to accomplish these purposes.
- Providing definitions of terms in 365.172 for "answering point," "automatic location identification," "automatic number identification," "board," "department," "E911," "fee," "fund," "local exchange carrier," "local government," "order," "provider," "public agency," "public safety agency," "rural county," "service," "service number," "wireless 911 system."
- Providing for the powers and duties of the Department of Management Services to oversee the administration of the fee imposed on subscribers of the statewide E911 service.
- Providing for the powers and duties of the Wireless 911 Board, as follows:
  - Establishing the board to administer, with oversight by DMS, the fee, including the revenues derived from the fee;
  - Distributing portions of revenues to providers, counties, and DMS;
  - Accounting for receipts, distributions, and income derived by the funds maintained in the fund;
  - Providing annual reports to the Governor and the Legislature for submission by the department on amounts collected and expended and the purposes for which expenditures have been made, along with the status of the wireless E911 service in the state.
  - Providing for the board to have the power of a body corporate.
  - Providing for the board to consist of seven members, one of whom must be the system director, as designated by the board, or his or her designee, who must serve as the chair of the board.
  - Providing for the remaining 6 members of the board to be appointed by the Governor and must be composed of 3 county 911 coordinators recommended by the Florida Association of Counties and 3 members from the wireless telecommunications industry. However, no more than one member may be appointed to represent any single provider on the board.
  - Providing that the system director, or his or her designee, must be a permanent member of the board. Each of the remaining six members of the board must be appointed to a 4-year term and may not be appointed to more than two successive terms.
  - Providing for staggering terms, as follows: two of the original board members must be appointed to terms of 4 years, two must be appointed to terms of 3 years, and two must be appointed to terms of 2 years, as designated by the Governor.
  - Providing that vacancies on the board must be filled in the same manner as the original appointment.

- Providing for the authority of the board and an annual report, as follows:
  - Providing that the board must administer the E911 fee.
  - Providing that the board must implement, maintain, and oversee the fund.
  - Providing that the board must review and oversee the disbursement of the revenues deposited into the fund.
  - Providing that the board may establish a schedule for implementing the wireless E911 service by service area, and prioritize disbursements of revenues from the fund to providers and rural counties pursuant to terms and conditions, as required by the FCC order and to the schedule.
  - Providing for the review of documentation submitted by providers which reflects current and projected funds derived from the E911 fee, and the expenses incurred and expected to be incurred, in order to comply with the E911 service requirements of the FCC order.
  - Providing for the review of documentation submitted by the providers to ensure that providers are not provided disbursement from the fund which exceed the cost of providing the E911 service.
  - Providing for the review of documentation submitted by the providers to ascertain that the projected costs of compliance with the requirements of the order and projected collections of the E911 fee.
  - Providing for the review of documentation submitted by the providers implementing changes to the allocation percentages or reducing the E911 fee as provided for review after July 1, 2001.
- Providing the board with authority, as follows:
  - To review and approve or reject, in whole or in part, applications submitted by providers for recovery of moneys deposited into the fund.
  - To hire and retain employees for the purposes of performing administrative functions for the board.
  - To make and enter into contracts, pursuant to ch. 287, F.S., and execute other instruments necessary or convenient for the exercise of the powers and functions of the board.
  - To take all necessary and reasonable steps, by July 1, 2000, to secure appropriate information and reports from providers and otherwise perform all of the functions that would be performed by an independent accounting firm prior to completing the request-for-proposals process.
  - To sue and to be sued, appear and defend in all actions and proceedings, in its corporate name to the same extent as a natural person.
  - To adopt, use, and alter a common corporate seal.
  - To elect or appoint the officers and agents that are required by the affairs of the board.
  - To adopt rules under ss. 120.54 and 120.536 (1), F.S., to implement newly created s. 365.172, and ss. 265.173 and 365.174, F.S.
  - To do all acts and things necessary or convenient to carry out the powers granted in this section.

- Requiring the board to serve without compensation, however, the members are entitled to per diem and travel expenses, as provided in section 112.061, Florida Statutes.
- Requiring the board to, prepare a report for submission by DMS to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by February 28 of each year, which reflects, for the immediate preceding calendar year, the quarterly and annual receipts and disbursements of moneys in the fund, describing the purposes for which such disbursements were made, and the availability and status of implementation of the E911 service in the state.
- Requiring the board to, by February 29, 2001, to undertake and complete a study for submission by DMS to the Governor, the President of the Senate, and the Speaker of the House of Representatives, a report which discusses the following:
  - The total amount of E911 fee revenues collected by each provider, the total amount of expenses incurred by each provider to comply with the order, and the amount of moneys on deposit in the fund, as of December 1, 2000.
  - Whether the amount of the E911 fee and the allocation percentages set forth in s. 365.173, F.S., should be adjusted to comply with the requirements of the FCC order, and, if so, a recommended adjustment to the E911 fee.
  - Any other issues related to providing wireless E911 services.
- Requiring the board to request proposals for an independent accounting firm to perform all material administrative and accounting tasks and functions required for administering the E911 fee, to include but not be limited to the requirements, as follows:
  - A description of the scope and general requirements of the services requested.
  - A description of the specific accounting and reporting services required for administering the fund, including processing checks and distributing funds as directed by the board under s. 365.173, F.S.
  - A description of information to be provided by the proposer, including the proposer's background and qualifications and the proposed cost of the services to be provided.
- Requiring the board to establish a committee to review requests for proposals which must include the statewide 911 system director, or his or her designee, and two members of the board, one of whom is a county 911 coordinator and one of whom represents the wireless telecommunications industry.
- Requiring the review committee to review the proposals received by the board and recommend an independent accounting firm to the board for final selection. By agreeing to serve on the review committee, each member of the review committee must verify that he or she does not have any interest or employment, directly or indirectly, with potential proposers which conflicts in any manner or degree with his or her performance on the committee.
- Requiring that each provider must collect a monthly fee imposed on each service subscriber who has a service number and a billing address within this state. The rate of the fee must be 50 cents per month per service number, beginning August 1, 1999. The fee must be applied uniformly and imposed throughout the state.
- Providing that the fee is established to ensure full recovery for providers and for counties, over a reasonable period, of the costs associated with developing and maintaining an E911 system on a technologically and competitively neutral basis.
- Allowing the board, after July 1, 2001, to adjust the allocation percentages or reduce the amount of the fee, or both, if necessary to ensure full cost recovery or prevent over recovery of costs incurred in the provision of the E911 service, including costs incurred or projected to be incurred to comply with the order. Any new allocation percentages or reduced fee may

not be adjusted for 2 years. The fee may not exceed 50 cents per month per service number.

- Prohibiting state and local taxes to be applied to the fee.
- Prohibiting local governments from levying any additional fee on wireless providers or subscribers for the provision of E911 service.
- Requiring the management of funds, as follows:
  - Requiring each provider, as part of the monthly billing process, to collect the fee imposed.
  - Allowing the provider to list the fee as a separate entry on each bill as a fee for E911 service.
  - Requiring providers to remit the fee only if the fee is paid by the subscriber.
  - Allowing partial payments to providers to be applied first to the provider for the provision of the telecommunications service.
  - Providing that the provider is not required to take any legal action to enforce collection of the fees for which any subscriber is billed.
  - Requiring the provider to provide to the board each quarter a list of names, addresses, and service numbers of all subscribers who have indicated to the provider their refusal to pay the fee.
  - Allowing each provider to retain 1 percent of the amount of fees collected as reimbursement for the administrative costs incurred by the provider to bill, collect, and remit the fee. The remainder must be delivered to the board and deposited in the fund.
  - Requiring the board to distribute the remainder of the fund pursuant to s. 365.173, F.S.
  - Requiring each provider to deliver revenues from the fee to the board within 60 days after the end of the month in which the fee was billed, along with a monthly report of the number of billing addresses of wireless subscribers in each county.
  - Allowing a provider to apply to the board for a refund of, or a credit for, any fees remitted to the board following the month in which the fees are charged off for federal income tax purposes as a bad debt.
  - Allowing the board to waive the requirement that the fees and number of billing addresses be submitted to the board each month and authorize a provider to submit the fees and number of billing addresses quarterly if the provider demonstrates that such waiver is necessary and justified.
  - Defining "provider" to include any person or entity that resells wireless service and was not assessed the fee by its resale supplier.
- Providing that, in accordance with the FCC order, a provider is not required to provide E911 service until:
  - The provider receives a request in writing for such service from the County 911 Coordinator and the affected Public Service Answering Point (PSAP) is capable of receiving and using the data elements associated with the service.
  - Funds are available under s. 365.173(2)(b), F.S.
  - The local exchange carrier is able to support the E911 system.

- The service area has been scheduled for implementation of E911 service by the board pursuant to subparagraph (6)(a)3. If a county's 911 coordinator requests E911 service from a provider, the coordinator must also request E911 service from all other providers in the area in a nondiscriminatory and fair manner.
- Providing penalties for the misuse of the wireless 911 system, as follows:
  - Providing that the E911 service must be used solely for emergency communications by the public. Any person who knowingly uses or attempts to use such service for a purpose other than obtaining public safety assistance, or who knowingly uses or attempts to use such service in an effort to avoid any charge for service, commits a misdemeanor of the first degree, punishable as provided in ss. 775.082 or 775.083, F.S.
  - Providing that after being convicted of unauthorized use of such service four times, a person who continues to engage in such unauthorized use commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.
  - Providing that if the value of the service or the service charge obtained in a manner prohibited by this subsection exceeds \$100, the person committing the offense commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.
- Providing that this section and ss. 365.173 and 365.174, F.S., do not alter any state law that otherwise regulates providers of telecommunications service.

**Section 2:** Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Wireless Emergency System Fund	<u>FY 99-00</u> \$18.9M	<u>FY 00-01</u> \$30.6M
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The Wireless 911 Board will incur costs associated with administering its functions.

Although the board itself consists of 7 uncompensated members, the members are entitled to per diem and travel expenses as provided in s. 112.061, F.S. It is anticipated that the board will hire employees, who will need to be compensated.

There will be some costs involved in preparing reports for DMS to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, along with other administrative costs.

The board must hire an independent accounting firm to perform all material administrative and accounting tasks and functions required.

The associated trust fund bill (HB 513) provides up to 2% of the funds set aside for reimbursement to wireless providers may be used as operating funds for the board.

This 2% is not subject to the service charges imposed by the provisions of s. 215.20, F.S. The Auditor General is required to annually audit the fund.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

The expected revenues and distributions projected to occur are:

Fiscal Year	Industry Portion 54%	Counties Portion 44%	Small Counties 2%	Total Revenue 100%
1999-2000	\$10.2 million	\$8.3 million	\$0.4 million	\$18.9 million
2000-2001	16.5 million	13.5 million	0.6 million	30.6 million

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Cellular subscribers will be required to pay an additional 50 cent surcharge per number on their monthly cellular phone bill

2. Direct Private Sector Benefits:

Enhanced emergency services would be provided as funds are made available for the counties and cellular providers to upgrade their systems.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate. Upon implementation of the act, all wireless communications subscribers will be required to pay 50 cents per month to the wireless providers to pay for implementation of E911 services for wireless telephones. A fee imposed on a per subscriber basis would have an insignificant impact on competition in the growing market for wireless services. A fee of 50 cents per month will have an indeterminate impact on demand for such services.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of municipalities or counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the total aggregate municipality/county percentage share of state tax.

V. COMMENTS:

The bill has two associated bills: HB 513 creates a trust fund for the deposit and disbursement of fees collected under this program and creates s. 365.173, F.S.; HB 511 creates a public record exemption for specific proprietary information submitted to the board by wireless providers and creates s. 365.174, F.S.

**The Florida Hospital Association:** The Florida Hospital Association supports this bill.

The definition of "Order" contained in the bill at new Section 365.172(3), Florida Statutes, "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." This definition appears to adopt future actions of the FCC as substantive law. However, adopting a future federal act or ruling of a federal administrative body is an unconstitutional delegation of legislative power. See *e.g.*, *Freimuth v. State*, 272 So.2d 473, 476 (FL 1972) (adopting the reasoning of *Florida Industrial Commission v. State*, 21 So.2d 599, 602) (FL 1945).

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 8, 1999, the House Committee on Community Affairs adopted two amendments, which are traveling with the bill.

**Amendment 1:** A technical amendment correcting a date error from "February 29, 2001" to "February 28, 2001."

**Amendment 2:** A clarification amendment clarifying that the Wireless Board has the authority to consider emerging technology and related cost savings.

On March 22, 1999, the House Committee on Utilities and Communications adopted three amendments.

**Amendment 1:** Provides the specific definition of "order" and includes references to the Federal Communications Commission Orders that have been adopted in FCC Docket No. 94-102 and orders and rules subsequently adopted by the FCC relating to the provision of 911 services.

**Amendment 2:** Provides for a severability clause.

**Amendment 3:** Provides for the reporting on the number of wireless subscriber billing addresses for 1999 and 2000. It also provides for reporting and compiling of average service rate information by license service area for the above years. Wireless providers may submit a representative sample of low, medium and high user rates for the requested years.

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**DATE:** April 5, 1999

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VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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Staff Director:

Joan Highsmith-Smith

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Prepared by:

Douglas Pile

Staff Director:

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AS FURTHER REVISED BY THE COMMITTEE ON UTILITIES AND COMMUNICATIONS:

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AS FURTHER REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

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