

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 for  
30          severability; providing an appropriation;  
31          providing an effective date.

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

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

365.172 Wireless emergency telephone number "E911."

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

(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

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:

27           1. The following orders and rules of the Federal  
28 Communications Commission issued in FCC Docket No. 94-102:

29           a. Order adopted on June 12, 1996, with an effective  
30 date of October 1, 1996, the amendments to Section 20.03 and  
31 the creation of Section 20.18 of Title 47 of the Code of

1 Federal Regulations adopted by the Federal Communications  
2 Commission pursuant to such order.

3 b. Memorandum and Order No. FCC 97-402 adopted on  
4 December 23, 1997.

5 c. Order No. FCC DA 98-2323 adopted on November 13,  
6 1998.

7 d. Order No. FCC 98-345 adopted December 31, 1998.

8 2. Orders and rules subsequently adopted by the  
9 Federal Communications Commission relating to the provision of  
10 wireless 911 services.

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12 (l) "Provider" means a person or entity who provides  
13 service and either:

14 1. Is subject to the requirements of the order; or

15 2. Elects to provide wireless 911 service or E911  
16 service in this state.

17 (m) "Public agency" means the state and any  
18 municipality, county, municipal corporation, or other  
19 governmental entity, public district, or public authority  
20 located in whole or in part within this state which provides,  
21 or has authority to provide, firefighting, law enforcement,  
22 ambulance, medical, or other emergency services.

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

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

28 (p) "Service" means "commercial mobile radio service"  
29 as provided under ss. 3(27) and 332(d) of the Federal  
30 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,  
31 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.

1 103-66, August 10, 1993, 107 Stat. 312. The term "service"  
2 includes the term "wireless" and service provided by any  
3 wireless real-time two-way wire communication device,  
4 including radio-telephone communications used in cellular  
5 telephone service; personal communications service; or the  
6 functional or competitive equivalent of a radio-telephone  
7 communications line used in cellular telephone service, a  
8 personal communications service, or a network radio access  
9 line. The term does not include wireless providers that offer  
10 mainly dispatch service in a more localized, noncellular  
11 configuration; providers offering only data, one-way, or  
12 stored-voice services on an interconnected basis; providers of  
13 air-to-ground services; or public coast stations.

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

16 (r) "Wireless 911 system" or "wireless 911 service"  
17 means an emergency telephone system or service that provides a  
18 subscriber with the ability to reach an answering point by  
19 dialing the digits "911." A wireless 911 system is  
20 complementary to a wired 911 system as provided for in s.  
21 365.171.

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

25 (5) THE WIRELESS 911 BOARD.--

26 (a) The Wireless 911 Board is established to  
27 administer, with oversight by the department, the fee imposed  
28 under subsection (8), including receiving revenues derived  
29 from the fee; distributing portions of such revenues to  
30 providers, counties, and the department; accounting for  
31 receipts, distributions, and income derived by the funds

1 maintained in the fund; and providing annual reports to the  
2 Governor and the Legislature for submission by the department  
3 on amounts collected and expended, the purposes for which  
4 expenditures have been made, and the status of wireless E911  
5 service in this state. In order to advise and assist the  
6 department in carrying out the purposes of this section, the  
7 board, which shall have the power of a body corporate, shall  
8 have the powers enumerated in subsection (6).

9 (b) The board shall consist of seven members, one of  
10 whom must be the system director designated under s.  
11 365.171(5), or his or her designee, who shall serve as the  
12 chair of the board. The remaining six members of the board  
13 shall be appointed by the Governor and must be composed of  
14 three county 911 coordinators recommended by the Florida  
15 Association of Counties and three members from the wireless  
16 telecommunications industry. Not more than one member may be  
17 appointed to represent any single provider on the board.

18 (c) The system director, or his or her designee, must  
19 be a permanent member of the board. Each of the remaining six  
20 members of the board shall be appointed to a 4-year term and  
21 may not be appointed to more than two successive terms.  
22 However, for the purpose of staggering terms, two of the  
23 original board members shall be appointed to terms of 4 years,  
24 two shall be appointed to terms of 3 years, and two shall be  
25 appointed to terms of 2 years, as designated by the Governor.  
26 A vacancy on the board shall be filled in the same manner as  
27 the original appointment.

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

29 (a) The board shall:

- 30 1. Administer the E911 fee.
- 31 2. Implement, maintain, and oversee the fund.

1           3. Review and oversee the disbursement of the revenues  
2 deposited into the fund as provided in s. 365.173. The board  
3 may establish a schedule for implementing wireless E911  
4 service by service area, and prioritize disbursements of  
5 revenues from the fund to providers and rural counties as  
6 provided in s. 365.173(2)(b) and (c) pursuant to the schedule,  
7 in order to implement E911 services in the most efficient and  
8 cost-effective manner.

9           4. Review documentation submitted by providers which  
10 reflects current and projected funds derived from the E911  
11 fee, and the expenses incurred and expected to be incurred, in  
12 order to comply with the E911 service requirements contained  
13 in the order for the purposes of:

14           a. Ensuring that providers receive fair and equitable  
15 distributions of funds from the fund.

16           b. Ensuring that providers are not provided  
17 disbursements from the fund which exceed the costs of  
18 providing E911 service, including the costs of complying with  
19 the order.

20           c. Ascertaining the projected costs of compliance with  
21 the requirements of the order and projected collections of the  
22 E911 fee.

23           d. Implementing changes to the allocation percentages  
24 or reducing the E911 fee under paragraph (8)(c).

25           5. Review and approve or reject, in whole or in part,  
26 applications submitted by providers for recovery of moneys  
27 deposited into the fund.

28           6. Hire and retain employees for the purposes of  
29 performing administrative functions for the board.

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1           7. Make and enter into contracts, pursuant to chapter  
2 287, and execute other instruments necessary or convenient for  
3 the exercise of the powers and functions of the board.

4           8. Take all necessary and reasonable steps by July 1,  
5 2000, to secure appropriate information and reports from  
6 providers and otherwise perform all of the functions that  
7 would be performed by an independent accounting firm prior to  
8 completing the request-for-proposals process under subsection  
9 (7).

10           9. Sue and be sued, and appear and defend in all  
11 actions and proceedings, in its corporate name to the same  
12 extent as a natural person.

13           10. Adopt, use, and alter a common corporate seal.

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

16           12. The board may adopt rules under ss. 120.54 and  
17 120.536(1) to implement this section and ss. 365.173 and  
18 365.174.

19           13. Do all acts and things necessary or convenient to  
20 carry out the powers granted in this section, including but  
21 not limited to, consideration of emerging technology and  
22 related cost savings.

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

26           (c) By February 28 of each year, the board shall  
27 prepare a report for submission by the department to the  
28 Governor, the President of the Senate, and the Speaker of the  
29 House of Representatives which reflects, for the immediately  
30 preceding calendar year, the quarterly and annual receipts and  
31 disbursements of moneys in the fund, the purposes for which

1 disbursements of moneys from the fund have been made, and the  
2 availability and status of implementation of E911 service in  
3 this state.

4 (d) By February 28, 2001, the board shall undertake  
5 and complete a study for submission by the department to the  
6 Governor, the President of the Senate, and the Speaker of the  
7 House of Representatives which addresses:

8 1. The total amount of E911 fee revenues collected by  
9 each provider, the total amount of expenses incurred by each  
10 provider to comply with the order, and the amount of moneys on  
11 deposit in the fund, all as of December 1, 2000.

12 2. Whether the amount of the E911 fee and the  
13 allocation percentages set forth in s. 365.173 should be  
14 adjusted to comply with the requirements of the order, and, if  
15 so, a recommended adjustment to the E911 fee.

16 3. By county, the total number of wireless subscriber  
17 billing addresses for the years 1999-2001.

18 4. A compilation of average service rate information,  
19 by license service area, for the years 1999-2001. The board  
20 shall request wireless providers submit a representative  
21 sample of low, medium and high user rates for the requested  
22 period and compliance with such request shall be voluntary.

23 5. Any other issues related to providing wireless E911  
24 services.

25 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING  
26 FIRM.--

27 (a) The board shall issue a request for proposals as  
28 provided in chapter 287 for the purpose of retaining an  
29 independent accounting firm. The independent accounting firm  
30 shall perform all material administrative and accounting tasks  
31 and functions required for administering the E911 fee. The

1 request for proposals must include, but need not be limited  
2 to:

3 1. A description of the scope and general requirements  
4 of the services requested.

5 2. A description of the specific accounting and  
6 reporting services required for administering the fund,  
7 including processing checks and distributing funds as directed  
8 by the board under s. 365.173.

9 3. A description of information to be provided by the  
10 proposer, including the proposer's background and  
11 qualifications and the proposed cost of the services to be  
12 provided.

13 (b) The board shall establish a committee to review  
14 requests for proposals which must include the statewide 911  
15 system director, or his or her designee, and two members of  
16 the board, one of whom is a county 911 coordinator and one of  
17 whom represents the wireless telecommunications industry. The  
18 review committee shall review the proposals received by the  
19 board and recommend an independent accounting firm to the  
20 board for final selection. By agreeing to serve on the review  
21 committee, each member of the review committee shall verify  
22 that he or she does not have any interest or employment,  
23 directly or indirectly, with potential proposers which  
24 conflicts in any manner or degree with his or her performance  
25 on the committee.

26 (8) WIRELESS E911 FEE.--

27 (a) Each provider shall collect a monthly fee imposed  
28 on each service subscriber who has a service number that has a  
29 billing address within this state. The rate of the fee shall  
30 be 50 cents per month per each service number, beginning  
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1 August 1, 1999. The fee shall apply uniformly and be imposed  
2 throughout the state.

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

7 (c) After July 1, 2001, the board may adjust the  
8 allocation percentages provided in s. 365.173 or reduce the  
9 amount of the fee, or both, if necessary to ensure full cost  
10 recovery or prevent overrecovery of costs incurred in the  
11 provision of E911 service, including costs incurred or  
12 projected to be incurred to comply with the order. Any new  
13 allocation percentages or reduced fee may not be adjusted for  
14 2 years. The fee may not exceed 50 cents per month per each  
15 service number.

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

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

20 (9) MANAGEMENT OF FUNDS.--

21 (a) Each provider, as a part of its monthly billing  
22 process, shall collect the fee imposed under subsection (8).  
23 The provider may list the fee as a separate entry on each  
24 bill, in which case the fee must be identified as a fee for  
25 E911 services. A provider shall remit the fee only if the fee  
26 is paid by the subscriber. If a provider receives a partial  
27 payment for a monthly bill from a subscriber, the amount  
28 received shall first be applied to the payment due the  
29 provider for the provision of telecommunications service.

30 (b) A provider is not obligated to take any legal  
31 action to enforce collection of the fees for which any

1 subscriber is billed. The provider shall provide to the board  
2 each quarter a list of the names, addresses, and service  
3 numbers of all subscribers who have indicated to the provider  
4 their refusal to pay the fee.

5 (c) Each provider may retain 1 percent of the amount  
6 of the fees collected as reimbursement for the administrative  
7 costs incurred by the provider to bill, collect, and remit the  
8 fee. The remainder shall be delivered to the board and  
9 deposited in the fund. The board shall distribute the  
10 remainder pursuant to s. 365.173.

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

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

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

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1           (a) The provider receives a request in writing for  
2 such service from the county 911 coordinator and the affected  
3 answering point is capable of receiving and using the data  
4 elements associated with the service.

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

6           (c) The local exchange carrier is able to support the  
7 E911 system.

8           (d) The service area has been scheduled for  
9 implementation of E911 service by the board pursuant to  
10 subparagraph (6)(a)3. If a county's 911 coordinator requests  
11 E911 service from a provider, the coordinator shall also  
12 request E911 service from all other providers in the area in a  
13 nondiscriminatory and fair manner.

14           (11) MISUSE OF WIRELESS 911 SYSTEM; PENALTY.--E911  
15 service must be used solely for emergency communications by  
16 the public. Any person who knowingly uses or attempts to use  
17 such service for a purpose other than obtaining public safety  
18 assistance, or who knowingly uses or attempts to use such  
19 service in an effort to avoid any charge for service, commits  
20 a misdemeanor of the first degree, punishable as provided in  
21 s. 775.082 or s. 775.083. After being convicted of  
22 unauthorized use of such service four times, a person who  
23 continues to engage in such unauthorized use commits a felony  
24 of the third degree, punishable as provided in s. 775.082, s.  
25 775.083, or s. 775.084. In addition, if the value of the  
26 service or the service charge obtained in a manner prohibited  
27 by this subsection exceeds \$100, the person committing the  
28 offense commits a felony of the third degree, punishable as  
29 provided in s. 775.082, s. 775.083, or s. 775.084.

1           (12) STATE LAW NOT PREEMPTED.--This section and ss.  
2 365.173 and 365.174 do not alter any state law that otherwise  
3 regulates providers of telecommunications service.

4           Section 2. If any provision of this act or the  
5 application thereof to any person or circumstance is held  
6 invalid, the invalidity shall not affect other provisions or  
7 applications of the act which can be given effect without the  
8 invalid provision or application, and to this end the  
9 provisions of this act are declared severable.

10           Section 3. There is hereby appropriated to the  
11 Department of Management Services \$18,711,000 from the  
12 Wireless Emergency Telephone System Trust Fund for the  
13 1999-2000 fiscal year, to include, \$8,607,060 for distribution  
14 to counties, \$9,729,720 for distribution to 911 service  
15 providers, and \$374,220 for Department of Management Services  
16 administrative costs.

17           Section 4. This act shall take effect July 1, 1999.  
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