

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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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:

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. Any other issues related to providing wireless E911
17 services.

18 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING
19 FIRM.--

20 (a) The board shall issue a request for proposals as
21 provided in chapter 287 for the purpose of retaining an
22 independent accounting firm. The independent accounting firm
23 shall perform all material administrative and accounting tasks
24 and functions required for administering the E911 fee. The
25 request for proposals must include, but need not be limited
26 to:

27 1. A description of the scope and general requirements
28 of the services requested.

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

3 3. A description of information to be provided by the
4 proposer, including the proposer's background and
5 qualifications and the proposed cost of the services to be
6 provided.

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

20 (8) WIRELESS E911 FEE.--

21 (a) Each provider shall collect a monthly fee imposed
22 on each service subscriber who has a service number that has a
23 billing address within this state. The rate of the fee shall
24 be 50 cents per month per each service number, beginning
25 August 1, 1999. The fee shall apply uniformly and be imposed
26 throughout the state.

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

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

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

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

14 (9) MANAGEMENT OF FUNDS.--

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

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

30 (c) Each provider may retain 1 percent of the amount
31 of the fees collected as reimbursement for the administrative

1 costs incurred by the provider to bill, collect, and remit the
2 fee. The remainder shall be delivered to the board and
3 deposited in the fund. The board shall distribute the
4 remainder pursuant to s. 365.173.

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

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

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

25 (a) The provider receives a request in writing for
26 such service from the county 911 coordinator and the affected
27 answering point is capable of receiving and using the data
28 elements associated with the service.

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

30 (c) The local exchange carrier is able to support the
31 E911 system.

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

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

23 (12) STATE LAW NOT PREEMPTED.--This section and ss.
 24 365.173 and 365.174 do not alter any state law that otherwise
 25 regulates providers of telecommunications service.

26 Section 2. If any provision of this act or the
 27 application thereof to any person or circumstance is held
 28 invalid, the invalidity shall not affect other provisions or
 29 applications of the act which can be given effect without the
 30 invalid provision or application, and to this end the
 31 provisions of this act are declared severable.

1 Section 3. There is hereby appropriated to the
2 Department of Management Services \$18,711,000 from the
3 Wireless Emergency Telephone System Trust Fund for the
4 1999-2000 fiscal year, to include, \$8,607,060 for distribution
5 to counties, \$9,729,720 for distribution to 911 service
6 providers, and \$374,220 for Department of Management Services
7 administrative costs.

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

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