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A bill to be entitled

An act relating to emergency communications; amending s. 365.172, F.S.; defining the terms "active prepaid wireless telephone," "mobile telephone number," "prepaid wireless telephone service," and "sufficient positive balance" for purposes of wireless emergency communications; prescribing additional duties of the board of directors of the Wireless 911 Board with respect to 911 and E911 systems; prescribing a method of collecting the wireless E911 fee in instances in which the wireless telephone service to which the surcharge applies is prepaid; providing for collocation of wireless telecommunications facilities; providing for location of such facilities on government buildings; exempting such facilities from certain local government regulation; amending s. 365.173, F.S.; authorizing disbursements from the Wireless Emergency Telephone System Fund for activities of the board of directors of the Wireless 911 Board; creating s. 365.175, F.S.; requiring new private branch exchange telephone systems to have automatic location identification capabilities; providing an effective date.

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

Section 1. Subsection (3), paragraph (a) of subsection (6), and subsection (9) of section 365.172, Florida Statutes, are amended, present subsections (11) and (12) of that section are renumbered as subsections (12) and (13), respectively, and a new subsection (11) is added to that section to read:

365.172 Wireless emergency telephone number "E911."--



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

33 (a) "Active prepaid wireless telephone" means a prepaid
34 wireless telephone that has been used by the customer during the
35 month to complete a telephone call for which the customer's card
36 or balance was decremented.

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

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

44 (d)~~(e)~~ "Automatic number identification" means the
45 capability of the E911 service which enables the automatic
46 display of the 10-digit service number used to place a 911 call.

47 (e)~~(d)~~ "Board" means the board of directors of the
48 Wireless 911 Board.

49 (f)~~(e)~~ "Office" means the State Technology Office.

50 (g)~~(f)~~ "E911" is the designation for a wireless enhanced
51 911 system or wireless enhanced 911 service that is an emergency
52 telephone system or service that provides a subscriber with
53 wireless 911 service and, in addition, directs 911 calls to
54 appropriate public safety answering points by selective routing
55 based on the geographical location from which the call
56 originated, or as otherwise provided in the state plan under s.
57 365.171, and that provides for automatic number identification
58 and automatic location-identification features in accordance
59 with the requirements of the order.



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60 (h)~~(g)~~ "Fee" means the E911 fee imposed under subsection
61 (8).

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

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

70 (k)~~(j)~~ "Local government" means any municipality, county,
71 or political subdivision or agency of a municipality, county, or
72 political subdivision.

73 (l) "Mobile telephone number" or "MTN" means the telephone
74 number assigned to a wireless telephone at the time of initial
75 activation.

76 (m)~~(k)~~ "Order" means:

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

79 a. Order adopted on June 12, 1996, with an effective date
80 of October 1, 1996, the amendments to s. 20.03 and the creation
81 of s. 20.18 of Title 47 of the Code of Federal Regulations
82 adopted by the Federal Communications Commission pursuant to
83 such order.

84 b. Memorandum and Order No. FCC 97-402 adopted on December
85 23, 1997.

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

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



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88 2. Orders and rules subsequently adopted by the Federal
89 Communications Commission relating to the provision of wireless
90 911 services.

91 ~~(n)(1)~~ "Provider" means a person or entity who provides
92 service and either:

- 93 1. Is subject to the requirements of the order; or
94 2. Elects to provide wireless 911 service or E911 service
95 in this state.

96 (o) "Prepaid wireless telephone service" means wireless
97 telephone service that is activated in advance by payment for a
98 finite dollar amount of service or for a finite set of minutes
99 that terminate either upon use by a customer and delivery by the
100 wireless provider of an agreed-upon amount of service
101 corresponding to the total dollar amount paid in advance or
102 within a certain period of time following the initial purchase
103 or activation, unless additional payments are made.

104 ~~(p)(m)~~ "Public agency" means the state and any
105 municipality, county, municipal corporation, or other
106 governmental entity, public district, or public authority
107 located in whole or in part within this state which provides, or
108 has authority to provide, firefighting, law enforcement,
109 ambulance, medical, or other emergency services.

110 ~~(q)(n)~~ "Public safety agency" means a functional division
111 of a public agency which provides firefighting, law enforcement,
112 medical, or other emergency services.

113 ~~(r)(e)~~ "Rural county" means any county that has a
114 population of fewer than 75,000.

115 ~~(s)(p)~~ "Service" means "commercial mobile radio service"
116 as provided under ss. 3(27) and 332(d) of the Federal
117 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and



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118 the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-
 119 66, August 10, 1993, 107 Stat. 312. The term "service" includes
 120 the term "wireless" and service provided by any wireless real-
 121 time two-way wire communication device, including radio-
 122 telephone communications used in cellular telephone service;
 123 personal communications service; or the functional or
 124 competitive equivalent of a radio-telephone communications line
 125 used in cellular telephone service, a personal communications
 126 service, or a network radio access line. The term does not
 127 include wireless providers that offer mainly dispatch service in
 128 a more localized, noncellular configuration; providers offering
 129 only data, one-way, or stored-voice services on an
 130 interconnected basis; providers of air-to-ground services; or
 131 public coast stations.

132 ~~(t)~~~~(q)~~ "Service number" means the unique 10-digit wireless
 133 telephone number assigned to a service subscriber.

134 (u) "Sufficient positive balance" means a dollar amount
 135 greater than or equal to the monthly wireless surcharge amount.

136 ~~(v)~~~~(r)~~ "Wireless 911 system" or "wireless 911 service"
 137 means an emergency telephone system or service that provides a
 138 subscriber with the ability to reach an answering point by
 139 dialing the digits "911." A wireless 911 system is complementary
 140 to a wired 911 system as provided for in s. 365.171.

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

142 (a) The board shall:

143 1. Administer the E911 fee.

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

145 3. Review and oversee the disbursement of the revenues
 146 deposited into the fund as provided in s. 365.173. The board may
 147 establish a schedule for implementing wireless E911 service by



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148 service area, and prioritize disbursements of revenues from the
 149 fund to providers and rural counties as provided in s.
 150 365.173(2)(b) and (c) pursuant to the schedule, in order to
 151 implement E911 services in the most efficient and cost-effective
 152 manner.

153 4. Review documentation submitted by providers which
 154 reflects current and projected funds derived from the E911 fee,
 155 and the expenses incurred and expected to be incurred, in order
 156 to comply with the E911 service requirements contained in the
 157 order for the purposes of:

158 a. Ensuring that providers receive fair and equitable
 159 distributions of funds from the fund.

160 b. Ensuring that providers are not provided disbursements
 161 from the fund which exceed the costs of providing E911 service,
 162 including the costs of complying with the order.

163 c. Ascertaining the projected costs of compliance with the
 164 requirements of the order and projected collections of the E911
 165 fee.

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

168 5. Review and approve or reject, in whole or in part,
 169 applications submitted by providers for recovery of moneys
 170 deposited into the fund.

171 6. Hire and retain employees for the purposes of
 172 performing administrative functions for the board.

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

176 8. Take all necessary and reasonable steps by July 1,
 177 2000, to secure appropriate information and reports from



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178 providers and otherwise perform all of the functions that would
179 be performed by an independent accounting firm prior to
180 completing the request-for-proposals process under subsection
181 (7).

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

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

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

188 12. The board may adopt rules under ss. 120.536(1) and
189 120.54 to implement this section and ss. 365.173 and 365.174.

190 13. Provide coordination, support, and technical
191 assistance to counties to promote the deployment of advanced 911
192 and E911 systems in the state.

193 14. Provide coordination and support for educational
194 opportunities related to 911 issues for the 911 community in
195 this state.

196 15. Act as an advocate for issues related to 911 system
197 functions, features, and operations to improve the delivery of
198 911 services to the residents of and visitors to this state.

199 16. Coordinate input from this state at national forums
200 and associations, to ensure that policies related to 911 systems
201 and services are consistent with the policies of the 911
202 community in this state.

203 17. Work cooperatively with the system director
204 established in s. 365.171(5) to enhance the state of 911
205 services in this state and to provide unified leadership for all
206 911 issues through planning and coordination.



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207 ~~18.13.~~ Do all acts and things necessary or convenient to
 208 carry out the powers granted in this section, including but not
 209 limited to, consideration of emerging technology and related
 210 cost savings.

211 (9) MANAGEMENT OF FUNDS.--

212 (a) Each provider, as a part of its monthly billing
 213 process, shall collect the fee imposed under subsection (8). The
 214 provider may list the fee as a separate entry on each bill, in
 215 which case the fee must be identified as a fee for E911
 216 services. A provider shall remit the fee only if the fee is paid
 217 by the subscriber. If a provider receives a partial payment for
 218 a monthly bill from a subscriber, the amount received shall
 219 first be applied to the payment due the provider for the
 220 provision of telecommunications service.

221 (b) In the case of prepaid wireless telephone service, the
 222 monthly wireless 911 surcharge imposed by subsection (8) shall
 223 be remitted based upon each prepaid wireless telephone
 224 associated with this state, for each wireless service customer
 225 that has a sufficient positive balance as of the last day of
 226 each month. The surcharge shall be remitted in any manner
 227 consistent with the wireless provider's existing operating or
 228 technological abilities, such as customer address, location
 229 associated with the MTN, or reasonable allocation method based
 230 upon other comparable relevant data. The surcharge amount or an
 231 equivalent number of minutes may be reduced from the prepaid
 232 subscriber's account since a direct billing may not be possible.
 233 However, collection of the wireless 911 surcharge in the manner
 234 of a reduction of value or minutes from the prepaid subscriber's
 235 account does not constitute a reduction in the sales price for
 236 purposes of taxes that are collected at the point of sale.



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237 (c)~~(b)~~ A provider is not obligated to take any legal
238 action to enforce collection of the fees for which any
239 subscriber is billed. The provider shall provide to the board
240 each quarter a list of the names, addresses, and service numbers
241 of all subscribers who have indicated to the provider their
242 refusal to pay the fee.

243 (d)~~(e)~~ Each provider may retain 1 percent of the amount of
244 the fees collected as reimbursement for the administrative costs
245 incurred by the provider to bill, collect, and remit the fee.
246 The remainder shall be delivered to the board and deposited in
247 the fund. The board shall distribute the remainder pursuant to
248 s. 365.173.

249 (e)~~(d)~~ Each provider shall deliver revenues from the fee
250 to the board within 60 days after the end of the month in which
251 the fee was billed, together with a monthly report of the number
252 of wireless customers whose place of primary use is in each
253 county. A provider may apply to the board for a refund of, or
254 may take a credit for, any fees remitted to the board which are
255 not collected by the provider within 6 months following the
256 month in which the fees are charged off for federal income tax
257 purposes as bad debt. The board may waive the requirement that
258 the fees and number of customers whose place of primary use is
259 in each county be submitted to the board each month and
260 authorize a provider to submit the fees and number of customers
261 quarterly if the provider demonstrates that such waiver is
262 necessary and justified.

263 (f)~~(e)~~ For purposes of this section, the definitions
264 contained in s. 202.11 and the provisions of s. 202.155 apply in
265 the same manner and to the same extent as such definitions and



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266 provisions apply to the taxes levied pursuant to chapter 202 on
 267 mobile communications services.

268 ~~(g)(f)~~ As used in this subsection, the term "provider"
 269 includes any person or entity that resells wireless service and
 270 was not assessed the fee by its resale supplier.

271 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--Effective
 272 statewide E911 implementation for the purpose of preserving
 273 public health, safety, and welfare of the state's residents,
 274 tourists, and traveling public requires that service providers
 275 have the ability to locate or colocate wireless
 276 telecommunications facilities throughout the state. Without this
 277 ability, federal law requirements and the purpose of E911 will
 278 not be achieved. Notwithstanding any other law or local
 279 ordinance to the contrary:

280 (a) A wireless telecommunications facility located on any
 281 state-owned or local-government-owned real property, building,
 282 or structure pursuant to a lease with the applicable government,
 283 or the actual location or colocation of a wireless
 284 telecommunications facility on a state or local government
 285 building, is not subject to local zoning regulation. However,
 286 construction of the facility is subject to local building
 287 regulation.

288 (b) To further facilitate agreements among service
 289 providers for colocation of their facilities, any wireless
 290 telecommunications facility that is being colocated on an
 291 existing facility is not subject to local zoning regulation.
 292 However, construction of the facility is subject to local
 293 building regulation.



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294 (c) Any additional wireless telecommunications facility
295 required at an existing site needed to comply with E911 is not
296 subject to any local zoning regulation.

297 (d) An existing wireless telecommunications facility's
298 height may be increased by 10 percent from the original
299 permitted height without the increase being subject to local
300 zoning regulation. However, the increase is subject to
301 applicable federal regulation.

302 (e) Local governments shall not require service providers
303 to provide evidence of a wireless telecommunications facility's
304 compliance with federal regulations.

305 (f) The Department of Management Services shall negotiate,
306 in the name of the state, leases for wireless telecommunications
307 facilities that provide access to state-owned property not
308 acquired for transportation purposes, and the Department of
309 Transportation shall negotiate, in the name of the state, leases
310 for wireless telecommunications facilities that provide access
311 to property acquired for state rights-of-way.

312 Section 2. Paragraph (b) of subsection (2) of section
313 365.173, Florida Statutes, is amended to read:

314 365.173 Wireless Emergency Telephone System Fund.--

315 (2) Subject to any modifications approved by the board
316 pursuant to s. 365.172(8)(c), the moneys in the fund shall be
317 distributed and used only as follows:

318 (b) Fifty-four percent of the moneys shall be distributed
319 in response to sworn invoices submitted to the board by
320 providers to reimburse such providers for the actual costs
321 incurred to provide 911 or E911 service, including the costs of
322 complying with the order. Such costs include costs and expenses
323 incurred by providers to design, purchase, lease, program,



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324 install, test, upgrade, operate, and maintain all necessary
325 data, hardware, and software required to provide E911 service.
326 Up to 2 percent of the funds allocated to providers shall be
327 retained by the board to be applied to costs and expenses
328 incurred for the purposes of managing, administering, and
329 overseeing the receipts and disbursements from the fund and
330 other activities as defined in s. 365.172(6). Any funds retained
331 for such purposes in a calendar year which are not applied to
332 such costs and expenses by March 31 of the following year shall
333 be distributed to providers pursuant to this paragraph.
334 Beginning in state fiscal year 2000-2001, each provider shall
335 submit to the board, by August 1 of each year, a detailed
336 estimate of the capital and operating expenses for which it
337 anticipates that it will seek reimbursement under this paragraph
338 during the ensuing state fiscal year. By September 15 of each
339 year, the board shall submit to the Legislature its legislative
340 budget request for funds to be allocated to providers under this
341 paragraph during the ensuing state fiscal year. The budget
342 request shall be based on the information submitted by the
343 providers and estimated surcharge revenues. Distributions of
344 moneys in the fund by the board to providers must be fair and
345 nondiscriminatory. If the total amount of moneys requested by
346 providers pursuant to invoices submitted to the board and
347 approved for payment exceeds the amount in the fund in any
348 month, providers that have invoices approved for payment shall
349 receive a pro rata share of moneys in the fund and the balance
350 of the payments shall be carried over to the following month or
351 months until all of the approved payments are made. The board
352 may adopt rules necessary to address the manner in which pro
353 rata distributions are made when the total amount of funds



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354 requested by providers pursuant to invoices submitted to the
355 board exceeds the total amount of moneys on deposit in the fund.

356

357 The Legislature recognizes that the wireless E911 fee authorized
358 under s. 365.172 will not necessarily provide the total funding
359 required for establishing or providing the 911 service. It is
360 the intent of the Legislature that all revenue from the fee be
361 used as specified in s. 365.171(13)(a)6.

362 Section 3. Section 365.175, Florida Statutes, is created
363 to read:

364 365.175 Emergency Telephone Number 911 Private Branch
365 Exchange/Private Switch Automatic Location Identification.--

366 (1) DEFINITIONS.--As used in this section, the term:

367 (a) "Automatic Location Identification" or "ALI" means the
368 automatic display at the Public Safety Answering Point (PSAP) of
369 the caller's telephone number, the address or location of the
370 telephone, and supplementary emergency services information.

371 (b) "Automatic Location Identification (ALI) Retrieval"
372 means the process of querying the 9-1-1 database for ALI
373 records.

374 (c) "Automatic Number Identification (ANI)" means the
375 telephone number associated with the access line from which a
376 call originates.

377 (d) "Private Branch Exchange" or "PBX" means a private
378 telephone system that is connected to the Public Switched
379 Telephone Network (PSTN).

380 (e) "Private Switch ALI (PSA)" means a service option
381 which provides enhanced 9-1-1 features for telephone stations
382 behind private switches. E. g. PBXs.



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383 (2) REQUIRED ALI CAPABILITY.--Each PBX system installed
 384 after January 1, 2004, must be capable of providing automatic
 385 location identification to the station level.

386 Section 4. This act shall take effect July 1, 2003.

387