

By Senator Bennett

21-630A-03

1 A bill to be entitled
2 An act relating to emergency communications;
3 amending s. 365.172, F.S.; defining the terms
4 "active prepaid wireless telephone," "mobile
5 telephone number," "prepaid wireless telephone
6 service," and "sufficient positive balance" for
7 purposes of wireless emergency communications;
8 prescribing additional duties of the board of
9 directors of the Wireless 911 Board with
10 respect to 911 and E911 systems; prescribing a
11 method of collecting the wireless E911 fee in
12 instances in which the wireless telephone
13 service to which the surcharge applies is
14 prepaid; providing for colocation of wireless
15 telecommunications facilities; providing for
16 location of such facilities on government
17 buildings; exempting such facilities from
18 certain local government regulation; amending
19 s. 365.173, F.S.; authorizing disbursements
20 from the Wireless Emergency Telephone System
21 Fund for activities of the board of directors
22 of the Wireless 911 Board; creating s. 365.175,
23 F.S.; requiring new private branch exchange
24 telephone systems to have automatic location
25 identification capabilities; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsection (3), paragraph (a) of subsection
31 (6), and subsection (9) of section 365.172, Florida Statutes,

1 are amended, present subsections (11) and (12) of that section
2 are renumbered as subsections (12) and (13), respectively, and
3 a new subsection (11) is added to that section to read:

4 365.172 Wireless emergency telephone number "E911."--

5 (3) DEFINITIONS.--As used in this section and ss.

6 365.173 and 365.174, the term:

7 (a) "Active prepaid wireless telephone" means a
8 prepaid wireless telephone that has been used by the customer
9 during the month to complete a telephone call for which the
10 customer's card or balance was decremented.

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

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

18 (d)~~(c)~~ "Automatic number identification" means the
19 capability of the E911 service which enables the automatic
20 display of the 10-digit service number used to place a 911
21 call.

22 (e)~~(d)~~ "Board" means the board of directors of the
23 Wireless 911 Board.

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

25 (g)~~(f)~~ "E911" is the designation for a wireless
26 enhanced 911 system or wireless enhanced 911 service that is
27 an emergency telephone system or service that provides a
28 subscriber with wireless 911 service and, in addition, directs
29 911 calls to appropriate public safety answering points by
30 selective routing based on the geographical location from
31 which the call originated, or as otherwise provided in the

1 state plan under s. 365.171, and that provides for automatic
2 number identification and automatic location-identification
3 features in accordance with the requirements of the order.

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

6 (i)~~(h)~~ "Fund" means the Wireless Emergency Telephone
7 System Fund established in s. 365.173 and maintained under
8 this section for the purpose of recovering the costs
9 associated with providing 911 service or E911 service,
10 including the costs of implementing the order.

11 (j)~~(i)~~ "Local exchange carrier" means an "alternative
12 local exchange telecommunications company" or a "local
13 exchange telecommunications company" as defined in s. 364.02.

14 (k)~~(j)~~ "Local government" means any municipality,
15 county, or political subdivision or agency of a municipality,
16 county, or political subdivision.

17 (l) "Mobile telephone number" or "MTN" means the
18 telephone number assigned to a wireless telephone at the time
19 of initial activation.

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

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

23 a. Order adopted on June 12, 1996, with an effective
24 date of October 1, 1996, the amendments to s. 20.03 and the
25 creation of s. 20.18 of Title 47 of the Code of Federal
26 Regulations adopted by the Federal Communications Commission
27 pursuant to such order.

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

30 c. Order No. FCC DA 98-2323 adopted on November 13,
31 1998.

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

2 2. Orders and rules subsequently adopted by the
3 Federal Communications Commission relating to the provision of
4 wireless 911 services.

5 (n)~~(l)~~ "Provider" means a person or entity who
6 provides service and either:

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

8 2. Elects to provide wireless 911 service or E911
9 service in this state.

10 (o) "Prepaid wireless telephone service" means
11 wireless telephone service that is activated in advance by
12 payment for a finite dollar amount of service or for a finite
13 set of minutes that terminate either upon use by a customer
14 and delivery by the wireless provider of an agreed-upon amount
15 of service corresponding to the total dollar amount paid in
16 advance or within a certain period of time following the
17 initial purchase or activation, unless additional payments are
18 made.

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

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

28 (r)~~(o)~~ "Rural county" means any county that has a
29 population of fewer than 75,000.

30 (s)~~(p)~~ "Service" means "commercial mobile radio
31 service" as provided under ss. 3(27) and 332(d) of the Federal

1 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,
2 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.
3 103-66, August 10, 1993, 107 Stat. 312. The term "service"
4 includes the term "wireless" and service provided by any
5 wireless real-time two-way wire communication device,
6 including radio-telephone communications used in cellular
7 telephone service; personal communications service; or the
8 functional or competitive equivalent of a radio-telephone
9 communications line used in cellular telephone service, a
10 personal communications service, or a network radio access
11 line. The term does not include wireless providers that offer
12 mainly dispatch service in a more localized, noncellular
13 configuration; providers offering only data, one-way, or
14 stored-voice services on an interconnected basis; providers of
15 air-to-ground services; or public coast stations.

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

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

21 (v)~~(r)~~ "Wireless 911 system" or "wireless 911 service"
22 means an emergency telephone system or service that provides a
23 subscriber with the ability to reach an answering point by
24 dialing the digits "911." A wireless 911 system is
25 complementary to a wired 911 system as provided for in s.
26 365.171.

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

28 (a) The board shall:

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

31

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.

30
31

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. 120.536(1) and
17 120.54 to implement this section and ss. 365.173 and 365.174.

18 13. Provide coordination, support, and technical
19 assistance to counties to promote the deployment of advanced
20 911 and E911 systems in the state.

21 14. Provide coordination and support for educational
22 opportunities related to 911 issues for the 911 community in
23 this state.

24 15. Act as an advocate for issues related to 911
25 system functions, features, and operations to improve the
26 delivery of 911 services to the residents of and visitors to
27 this state.

28 16. Coordinate input from this state at national
29 forums and associations, to ensure that policies related to
30 911 systems and services are consistent with the policies of
31 the 911 community in this state.

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

5 ~~18.13.~~ Do all acts and things necessary or convenient
6 to carry out the powers granted in this section, including but
7 not limited to, consideration of emerging technology and
8 related cost savings.

9 (9) MANAGEMENT OF FUNDS.--

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

19 **(b) In the case of prepaid wireless telephone service,**
20 **the monthly wireless 911 surcharge imposed by subsection (8)**
21 **shall be remitted based upon each prepaid wireless telephone**
22 **associated with this state, for each wireless service customer**
23 **that has a sufficient positive balance as of the last day of**
24 **each month. The surcharge shall be remitted in any manner**
25 **consistent with the wireless provider's existing operating or**
26 **technological abilities, such as customer address, location**
27 **associated with the MTN, or reasonable allocation method based**
28 **upon other comparable relevant data. The surcharge amount or**
29 **an equivalent number of minutes may be reduced from the**
30 **prepaid subscriber's account since a direct billing may not be**
31 **possible. However, collection of the wireless 911 surcharge in**

1 the manner of a reduction of value or minutes from the prepaid
2 subscriber's account does not constitute a reduction in the
3 sales price for purposes of taxes that are collected at the
4 point of sale.

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

11 (d)~~(c)~~ Each provider may retain 1 percent of the
12 amount of the fees collected as reimbursement for the
13 administrative costs incurred by the provider to bill,
14 collect, and remit the fee. The remainder shall be delivered
15 to the board and deposited in the fund. The board shall
16 distribute the remainder pursuant to s. 365.173.

17 (e)~~(d)~~ Each provider shall deliver revenues from the
18 fee to the board within 60 days after the end of the month in
19 which the fee was billed, together with a monthly report of
20 the number of wireless customers whose place of primary use is
21 in each county. A provider may apply to the board for a refund
22 of, or may take a credit for, any fees remitted to the board
23 which are not collected by the provider within 6 months
24 following the month in which the fees are charged off for
25 federal income tax purposes as bad debt. The board may waive
26 the requirement that the fees and number of customers whose
27 place of primary use is in each county be submitted to the
28 board each month and authorize a provider to submit the fees
29 and number of customers quarterly if the provider demonstrates
30 that such waiver is necessary and justified.

31

1 ~~(f)(e)~~ For purposes of this section, the definitions
2 contained in s. 202.11 and the provisions of s. 202.155 apply
3 in the same manner and to the same extent as such definitions
4 and provisions apply to the taxes levied pursuant to chapter
5 202 on mobile communications services.

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

9 (11) FACILITATING E911 SERVICE

10 IMPLEMENTATION.--Effective statewide E911 implementation for
11 the purpose of preserving public health, safety, and welfare
12 of the state's residents, tourists, and traveling public
13 requires that service providers have the ability to locate or
14 colocate wireless telecommunications facilities throughout the
15 state. Without this ability, federal law requirements and the
16 purpose of E911 will not be achieved. Notwithstanding any
17 other law or local ordinance to the contrary:

18 (a) A wireless telecommunications facility located on
19 any state-owned or local-government-owned real property,
20 building, or structure pursuant to a lease with the applicable
21 government, or the actual location or colocation of a wireless
22 telecommunications facility on a state or local government
23 building is not subject to local zoning regulation. However,
24 construction of the facility is subject to local building
25 regulation.

26 (b) To further facilitate agreements among service
27 providers for colocation of their facilities, any wireless
28 telecommunications facility that is being colocated on an
29 existing facility is not subject to local zoning regulation.
30 However, construction of the facility is subject to local
31 building regulation.

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

4 (d) An existing wireless telecommunications facility's
5 height may be increased by 10 percent from the original
6 permitted height without the increase being subject to local
7 zoning regulation. However, the increase is subject to
8 applicable federal regulation.

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

12 (f) The Department of Management Services shall
13 negotiate, in the name of the state, leases for wireless
14 telecommunications facilities that provide access to
15 state-owned property not acquired for transportation purposes,
16 and the Department of Transportation shall negotiate, in the
17 name of the state, leases for wireless telecommunications
18 facilities that provide access to property acquired for state
19 rights-of-way.

20 Section 2. Paragraph (b) of subsection (2) of section
21 365.173, Florida Statutes, is amended to read:

22 365.173 Wireless Emergency Telephone System Fund.--

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

26 (b) Fifty-four percent of the moneys shall be
27 distributed in response to sworn invoices submitted to the
28 board by providers to reimburse such providers for the actual
29 costs incurred to provide 911 or E911 service, including the
30 costs of complying with the order. Such costs include costs
31 and expenses incurred by providers to design, purchase, lease,

1 program, install, test, upgrade, operate, and maintain all
2 necessary data, hardware, and software required to provide
3 E911 service. Up to 2 percent of the funds allocated to
4 providers shall be retained by the board to be applied to
5 costs and expenses incurred for the purposes of managing,
6 administering, and overseeing the receipts and disbursements
7 from the fund and other activities as defined in s.
8 365.172(6). Any funds retained for such purposes in a calendar
9 year which are not applied to such costs and expenses by March
10 31 of the following year shall be distributed to providers
11 pursuant to this paragraph. Beginning in state fiscal year
12 2000-2001, each provider shall submit to the board, by August
13 1 of each year, a detailed estimate of the capital and
14 operating expenses for which it anticipates that it will seek
15 reimbursement under this paragraph during the ensuing state
16 fiscal year. By September 15 of each year, the board shall
17 submit to the Legislature its legislative budget request for
18 funds to be allocated to providers under this paragraph during
19 the ensuing state fiscal year. The budget request shall be
20 based on the information submitted by the providers and
21 estimated surcharge revenues. Distributions of moneys in the
22 fund by the board to providers must be fair and
23 nondiscriminatory. If the total amount of moneys requested by
24 providers pursuant to invoices submitted to the board and
25 approved for payment exceeds the amount in the fund in any
26 month, providers that have invoices approved for payment shall
27 receive a pro rata share of moneys in the fund and the balance
28 of the payments shall be carried over to the following month
29 or months until all of the approved payments are made. The
30 board may adopt rules necessary to address the manner in which
31 pro rata distributions are made when the total amount of funds

1 requested by providers pursuant to invoices submitted to the
2 board exceeds the total amount of moneys on deposit in the
3 fund.

4
5 The Legislature recognizes that the wireless E911 fee
6 authorized under s. 365.172 will not necessarily provide the
7 total funding required for establishing or providing the 911
8 service. It is the intent of the Legislature that all revenue
9 from the fee be used as specified in s. 365.171(13)(a)6.

10 Section 3. Section 365.175, Florida Statutes, is
11 created to read:

12 365.175 Emergency Telephone Number 911 Private Branch
13 Exchange/Private Switch Automatic Location Identification.--

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

15 (a) "Automatic Location Identification" or "ALI" means
16 the automatic display at the Public Safety Answering Point
17 (PSAP) of the caller's telephone number, the address or
18 location of the telephone, and supplementary emergency
19 services information.

20 (b) "Automatic Location Identification (ALI)
21 Retrieval" means the process of querying the 9-1-1 database
22 for ALI records.

23 (c) "Automatic Number Identification (ANI)" means the
24 telephone number associated with the access line from which a
25 call originates.

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

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

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

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

5
6 *****

7 SENATE SUMMARY

8 Authorizes collection of the wireless E911 fee through
9 subtraction from a subscriber's number of prepaid minutes
10 or through subtraction from the value of a subscriber's
11 account. Authorizes colocation of wireless
12 telecommunications facilities on publicly owned buildings
13 and structures. Authorizes increases in the height of
14 existing wireless telecommunications facilities. Exempts
15 such wireless telecommunications facilities from local
zoning regulations. Provides for leases of state and
locally owned property for wireless telecommunications
purposes. Authorizes use of the wireless E911 fee
surcharge for activities of the board of directors of the
Wireless 911 Board. Requires private branch exchange
telephone systems installed after January 1, 2004, to
have automatic location identification capabilities.