

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Communications and Public Utilities Committee

BILL: CS/SB 1198

INTRODUCER: Communications & Public Utilities and Senator Bennett

SUBJECT: Emergency Communications Systems

DATE: March 29, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	CU	Fav/CS
2.			CA	
3.			FT	
4.			GA	
5.				
6.				

I. Summary:

This bill merges the wireline 911 plan for landline telecommunications companies and the Wireless Emergency Communications Act. The bill redesignates the emergency telephone 911 section as the “Florida Emergency Communications Number E911 State Plan Act” The legislative intent is modified to declare that the communications number “911” is the emergency communications number and is to be used solely for that purpose by a public safety agency. Certain definitions are added, deleted or clarified relating to this Act. The bill modifies the requirements for a state plan and for regional or multijurisdictional systems to encourage enhanced 911 (E911) service availability throughout the state.

The Wireless Emergency Telephone Number “E911” Act is modified to the “Emergency Communications Number E911 Act.” Legislative intent broadens the application of this law to users of voice communications services within the state from wireless telephone users, provides for an E911 board to administer the fees in a manner that is competitively and technologically neutral, and ensures the fee is used as directed in the Act. Certain definitions are added, deleted, or clarified relating to this Act. The bill modifies the powers and duties of the Florida Enterprise Information Technology Services Office. It creates the E911 Board by modifying the make-up of the Wireless 911 Board and modifies or provides for certain duties including the monitoring of the E911 fee. The Wireless 911 fee is broadened to the E911 Fee for most voice communications service. The bill provides for authorized expenditures of the E911 Fee. It provides for the liability of counties and indemnification and limitations of liability. The bill deletes the provision relating to the management of funds as such management is addressed under authorized expenditures.

Finally, the bill makes technical, conforming changes and removes outdated provisions such as those that initiate a 911 system. The bill becomes effective upon becoming law.

This bill substantially amends sections 365.171 and 365.172 of the Florida Statutes.

II. Present Situation:

Section 365.171, F.S., known as the Florida Emergency Telephone Act, was enacted in 1974 and established "911" as the statewide emergency telephone number and authorized the development of a statewide emergency telephone number "911" system plan to provide citizens with rapid access to public safety agencies by dialing "911." The objective of this law was to reduce the response time to situations requiring law enforcement, fire, medical, rescue and other emergency services. The law authorized the Board of County Commissioners to impose a 911 fee to be paid by local exchange subscribers to establish the 911 system and provide the 911 service. The fee was capped at \$.50.

In 1999, the Legislature created s. 365.172, F.S., known as the Wireless Emergency Communications Act¹ (Act) to implement a statewide E911 system for wireless telephone users. The act imposed a fee, capped at \$.50, on wireless subscribers to fund costs incurred by local governments to install and operate 911 systems and to reimburse wireless providers for costs incurred to provide 911 or E911 services. The Wireless 911 Board was established to help implement and oversee the system and to administer the funds derived from the fee. The Board disburses revenues from the fund to county governments and wireless providers for the purposes as described in the law. The law establishes percentages for distribution of the fund to counties and wireless providers on a monthly basis and for grants to rural counties. It further establishes the percentage to be used by the Board for administration of the Board. The Board has the authority to adjust the level of the fee, within the \$.50 cap, and the percentages once annually, to ensure full cost recovery or prevent over recovery of costs incurred in the provision of E911 service, including costs incurred or projected to be incurred.

In 2003, s. 365.172, F.S., was amended.² Language was added regarding the collection of the fee from prepaid wireless customers. The Board was authorized to: 1) provide technical assistance concerning the deployment of the 911 system, 2) provide for educational opportunities related to 911 issues for the 911 community, 3) advocate for 911 issues, and 4) to work cooperatively with the system director to enhance 911 services and provide unified leadership on 911 issues.

The 2006-07 Appropriations Act include proviso language³ directing the Wireless 911 Board to evaluate the 911 revenues and services costs to determine the date the wireless E911 fee could be reduced to a level that still funds all counties' E911 costs, service provider costs, and Board administration costs. The Board submitted its *2006 Wireline and Wireless 911 Fee Evaluation Legislative Report* on September 29, 2006. In its report, the Board concluded that currently there are insufficient fee revenues collected to cover all county and service provider E911 costs. Moreover, the report concluded that the wireline and wireless 911 fees will not cover the costs

¹ Ch. 99-367, Laws of Florida

² Ch. 2003-182, Laws of Florida

³ Number 2946 of the 2006-07 General Appropriations Act (HB5001)

associated with E911 within the next three years. The Board report also submitted the following legislative recommendations for consideration by the Legislature:

- Enact legislation to ensure that 911 fees are imposed on users in a fair and consistent manner, regardless of technology (i.e., Voice over Internet Protocol VoIP).
- Review and update the wireline statute to reflect changes in technology, equipment, present status of E911 services statewide and merge the wireline and wireless statutes into one comprehensive law.
- Modify the current Wireless 911 Board to an E911 Board with oversight of the newly combined statute, with all service providers represented on the Board.
- Reserve the Trust Fund exclusively for E911 systems and services.
- Change the provisions relating to prepaid calling services.

III. Effect of Proposed Changes:

Section 1 amends s. 365.171, F.S., to create the Florida Emergency Communications Number E911 State Plan Act. The legislative intent is modified to designate the communications number “911” as the emergency communications number and prohibit public safety agencies from advertising or otherwise promoting the use of any other number as such. A cohesive statewide emergency communications number 911 plan is to be implemented and continually updated to provide residents with rapid direct access to public safety agencies.

In the definitions section, the term “office” refers to the Florida Enterprise Information Technology Services Office or other office within the Department of Management Services, as designated by the secretary of the department, rather than the State Technology Office. In addition, the definitions of the terms “automatic location identification,” “automatic number identification,” “service identifier,” “voice communications services,” are revised and the definition of “medium county” is deleted.

The state plan is required to be maintained and appropriate modifications implemented. The provision authorizing the director to employ persons is removed. Provisions that required initial implementation have been deleted as they are no longer necessary. The provision relating to regional systems is modified to allow two or more counties to combine emergency E911 communications services by an interlocal agreement and using the fees. The provisions relating to the 911 fee, indemnification and limitation of liability, and false “911” calls are deleted from this section but are rewritten in section 365.172, F.S.

Section 2 amends s. 365.172, F.S., to create the Emergency Communications Number E911 Act. Provisions that limit the application to wireless communications are broadened to users of voice communications services within the state. Legislative intent relating solely to wireless that is made obsolete by other provisions of the bill is amended or deleted. Legislative intent is added to provide for an E911 board to administer the fee, with oversight by the office in a manner that is competitively and technologically neutral as to all voice communications services providers and to ensure that the fee established is used exclusively for recovery by wireless providers and by counties of the costs associated with developing and maintaining E911 systems and networks.

The definitions are modified, added, or deleted and apply to ss. 365.171 as well as 365.173 and 365.174, F.S., as part of the integration of sections 365.171 and 365.172, F.S. The Wireless 911 Board is renamed the E911 Board and its membership is expanded to nine, from seven, members. Two local exchange carrier members and an additional county 911 coordinator are added and one member from the wireless telecommunications industry is removed to balance representation on the board. Types of county coordinators to be board members are specified. Conforming changes are made to this subsection to provide for appointment transitions.

The Board authority is modified to give it the ability to provide grants to counties for the purpose of upgrading E911 systems. Only capital expenditures directly attributable to establishing and provisioning an E911 service, which may include next generation deployment, would qualify. The Board must review applications submitted by wireless providers for reimbursement and to authorize the transfer of and distribute the fee allocation to the counties. The existing authority of the Board is maintained to adjust the fee and percentages once annually, but also gives the Board authority the counties have in existing law to reduce or increase the fee up to the \$.50 cap. The Board is directed to reimburse all costs of a wireless provider before taking action to transfer additional funds. Under certain conditions of excess revenues, the Board may authorize transfer of funds to counties. The bill provides for a transfer of up to \$15 million to the county category under certain conditions. The Board must meet monthly, but may do so in the most efficient and cost-effective manner, including teleconferencing, to conduct business. The Board is directed to do all acts and things necessary or convenient to carry out the powers granted in a manner that is competitively and technologically neutral as to all voice communications services providers, including consideration of emerging technology and related cost savings, while taking into account embedded costs in current systems. Requirements for the Board's annual report to the Governor and Legislature are modified.

Provisions relating to the E911 fee are amended to incorporate the wireline and wireless fee requirements by applying them to each voice communications services provider. The fee is not to be assessed on any pay telephone in the state. Each provider shall bill the fee as follows:

- by the local exchange carrier to the local exchange subscribers on a service-identifier basis up to a maximum of 25 access lines per account bill rendered;
- by each wireless provider to the subscribers on a per-service-identifier basis whose primary place of use is within this state, but before July 1, 2009, the fee may not be assessed on any prepaid calling arrangement subject to sales, storage use tax under 212.05(1)e., F.S., (similar to prepaid long distance cards); and
- by all voice communications services providers on a per-service-identifier basis for service identifiers whose primary place of use is within the state.

The Board is required to conduct a study to determine the feasibility of collecting E911 fees from the sale of prepaid wireless service. The bill directs the study and provides for reporting to the President of the Senate and Speaker of the House and authorizes the Board to collect certain information from providers. The bill further directs the Board on collection of fees based upon the finding of the study.

The bill allows the fee to be listed as a separate entry on each bill so long as it is appropriately identified. It requires remittance to the Board if it is paid by the subscriber. If a partial payment

is made by a subscriber, the amount paid must first be applied to the payment. The provider is not required to take any legal action to enforce collection, however, the county is liable to the entity providing the 911 service. A one percent administration fee is allowed to be retained by the provider for billing, collection, and remitting the fee.

The bill provides for delivery of revenues after September 1, 2007. The rate of the fee shall be set by the board after considering specified factors but the fee is capped at \$.50 per month per each service identifier. The fee must be uniformly applied and imposed except for those counties that, before July 1, 2007, had adopted an ordinance or resolution establishing a fee less than \$.50 per month per access line. In those counties, the fee established by ordinance may be changed only to the uniform statewide rate no sooner than 30 days after notification is made by the county to the Board.

The bill provides for the use of the revenue to be as required under s. 365.173(2)(a)-(h), F.S. The bill further requires the board to set allocation percentages considering revenues currently allocated for wireless costs for implementing E911 service and projected costs, including recurring costs for Phase I and II, the appropriate level of funding for the rural grant program, and the need to fund statewide and county programs to assist large and medium counties with systems that would reduce their overall costs. References to “reductions” of the fee are deleted and replaced with “adjustments.” Requirements for “adjustments” are provided.

The bill provides for authorized expenditures of the E911 fee, the Liability of Counties and Indemnification and Limitation of Liability. The existing, now nonconforming, provisions for management of funds and provisions of services is deleted. Other technical and conforming changes are made in the bill.

The bill authorizes two and one-half full-time positions with an associated salary rate of \$151,278, and the sum of \$561,834 in recurring funds is appropriated from the Emergency Communications Number E911 System Fund of the Department of Management Services for the 2007-2008 fiscal year.

The bill becomes effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The bill changes the Boards authority from reducing to adjusting the 911 fee but retains the \$.50 fee cap.

B. Private Sector Impact:

The goal is to continue improving the E911 system by coordinating the systems and providing funding for future upgrades. Some voice communications services providers that have not paid the fee in the past will be required to pay it under this bill. After September 1, 2008, there is a slight increase in four counties (Duval, Lee, Pasco, and Volusia) when the fee is raised to the maximum cap on the wireline fee to match the wireless fee.

C. Government Sector Impact:

Better coordination and potentially more funding will allow local governments to continue improving and upgrading their E911 systems. The bill authorizes two and on-half full-time positions with an associated salary rate of \$151,278, and the sum of \$561,834 in recurring funds is appropriated from the Emergency Communications Number E911 System Fund of the Department of Management Services for the 2007-2008 fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A companion bill, SB 1200, makes conforming changes to s. 365.173, F.S., which creates the Wireless Emergency Telephone System Fund.

viii. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
