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CS/CS/HB 921

2007 Legislature

1 A bill to be entitled
2 An act relating to wireless communications funds; amending
3 s. 365.173, F.S.; redesignating the Wireless Emergency
4 Telephone System Fund as the "Emergency Communications
5 Number E911 System Fund"; requiring that all revenues
6 derived from a fee levied by a county on local exchange
7 subscribers be paid into the State Treasury by a specified
8 date and that the moneys be accounted for in a special
9 fund; providing a methodology for the distribution of the
10 funds; requiring counties to return money to the fund
11 under certain circumstances; requiring a wireless provider
12 to submit sworn invoices in order to support claims for
13 reimbursement of allowable costs; requiring that funds in
14 the E911 system fund on a specified date be returned to
15 wireless providers for costs incurred before a specified
16 date; providing procedures for reimbursement; requiring
17 the Auditor General to annually audit the fund; providing
18 an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 365.173, Florida Statutes, is amended
23 to read:

24 365.173 ~~Wireless~~ Emergency Communications Number E911
25 Telephone System Fund.--

26 (1) All revenues derived from the ~~E911~~ fee levied on
27 subscribers under s. 365.172 must be paid by the board into the
28 State Treasury on or before the 15th day of each month. Such

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29 moneys must be accounted for in a special fund to be designated
30 as the ~~Wireless~~ Emergency Communications Number E911 Telephone
31 System Fund, a fund created in the State Technology Program, or
32 other office as designated by the Secretary of Management
33 Services, and, for accounting purposes, must be segregated into
34 two separate categories:

- 35 (a) The wireless category; and
- 36 (b) The nonwireless category.

37
38 ~~All moneys Office and~~ must be invested by the Chief Financial
39 Officer pursuant to s. 17.61. All moneys in such fund are to be
40 expended by the ~~State Technology~~ office for the purposes
41 provided in this section and s. 365.172. These funds are not
42 subject to s. 215.20.

43 (2) As determined by the board pursuant to s.
44 365.172(8)(h), and subject to any modifications approved by the
45 board pursuant to s. 365.172(6)(a)3. or (8)(i) ~~(8)(e)~~, the
46 moneys in the fund shall be distributed and used only as
47 follows:

48 (a) Sixty-seven ~~Forty-four~~ percent of the moneys in the
49 wireless category shall be distributed each month to counties,
50 based on the total number of service identifiers ~~wireless~~
51 ~~subscriber billing addresses~~ in each county, and shall be used
52 exclusively for payment of:

53 1. Authorized expenditures ~~Recurring costs of providing~~
54 ~~911 or E911 service,~~ as specified in s. 365.172(9) ~~provided by~~
55 ~~s. 365.171(13)(a)6.~~

56 2. Costs to comply with the requirements for E911 service

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57 contained in the order and any future rules related to the
58 order.

59 (b) Ninety-seven percent of the moneys in the nonwireless
60 category shall be distributed each month to counties based on
61 the total number of service identifiers in each county and shall
62 be used exclusively for payment of authorized expenditures, as
63 specified in s. 365.172(9).

64 (c) Any county that receives funds under paragraphs (a)
65 and (b) ~~this paragraph~~ shall establish a fund to be used
66 exclusively for the receipt and expenditure of the revenues
67 collected under paragraphs (a) and (b) ~~this paragraph~~. All fees
68 placed in the fund and any interest accrued shall be used solely
69 for costs described in subparagraphs (a)1. and 2. The money
70 collected and interest earned in this fund shall be appropriated
71 for these purposes by the county commissioners and incorporated
72 into the annual county budget. The fund shall be included within
73 the financial audit performed in accordance with s. 218.39. A
74 county may carry forward up to 20 ~~30~~ percent of the total funds
75 disbursed to the county by the board during a calendar year for
76 expenditures for capital outlay, capital improvements, or
77 equipment replacement, if such expenditures are made for the
78 purposes specified in subparagraphs (a)1. and 2.; however, the
79 20-percent limitation does not apply to funds disbursed to a
80 county under s. 365.172(6)(a)3., and a county may carry forward
81 any percentage of the funds, except that any grant provided
82 shall continue to be subject to any condition imposed by the
83 board ~~this paragraph~~. In order to prevent an excess recovery of
84 costs incurred in providing E911 service, a county that receives

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85 funds greater than the permissible E911 costs described in s.
86 365.172(9), including the 20 percent carryforward allowance,
87 must return the excess funds to the E911 board to be allocated
88 under s. 365.172(6)(a).

89 (d)(b) Thirty ~~Fifty-four~~ percent of the moneys in the
90 wireless category shall be distributed to wireless providers in
91 response to sworn invoices submitted to the board by wireless
92 providers to reimburse such wireless providers for the actual
93 costs incurred to provide 911 or E911 service, including the
94 costs of complying with the order. Such costs include costs and
95 expenses incurred by wireless providers to design, purchase,
96 lease, program, install, test, upgrade, operate, and maintain
97 all necessary data, hardware, and software required to provide
98 E911 service. ~~Up to 2 percent of the funds allocated to~~
99 ~~providers shall be retained by the board to be applied to costs~~
100 ~~and expenses incurred for the purposes of managing,~~
101 ~~administering, and overseeing the receipts and disbursements~~
102 ~~from the fund and other activities as defined in s. 365.172(6).~~
103 ~~Any funds retained for such purposes in a calendar year which~~
104 ~~are not applied to such costs and expenses by March 31 of the~~
105 ~~following year shall be distributed to providers pursuant to~~
106 ~~this paragraph.~~ Each wireless provider shall submit to the
107 board, by August 1 of each year, a detailed estimate of the
108 capital and operating expenses for which it anticipates that it
109 will seek reimbursement under this paragraph during the ensuing
110 state fiscal year. In order to be eligible for recovery during
111 any ensuing state fiscal year, a wireless provider must submit
112 all sworn invoices for allowable purchases made within the

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113 previous calendar year no later than March 31 of the fiscal
114 year. By September 15 of each year, the board shall submit to
115 the Legislature its legislative budget request for funds to be
116 allocated to wireless providers under this paragraph during the
117 ensuing state fiscal year. The budget request shall be based on
118 the information submitted by the wireless providers and
119 estimated surcharge revenues. Distributions of moneys in the
120 fund by the board to wireless providers must be fair and
121 nondiscriminatory. If the total amount of moneys requested by
122 wireless providers pursuant to invoices submitted to the board
123 and approved for payment exceeds the amount in the fund in any
124 month, wireless providers that have invoices approved for
125 payment shall receive a pro rata share of moneys in the fund and
126 the balance of the payments shall be carried over to the
127 following month or months until all of the approved payments are
128 made. The board may adopt rules necessary to address the manner
129 in which pro rata distributions are made when the total amount
130 of funds requested by wireless providers pursuant to invoices
131 submitted to the board exceeds the total amount of moneys on
132 deposit in the fund.

133 (e) Notwithstanding paragraphs (a) and (d), the amount of
134 money that remained in the wireless 911 system fund on December
135 31, 2006, must be disbursed to wireless providers for the
136 recovery of allowable costs incurred in previous years ending
137 December 31, 2006, and in accordance with paragraph (d). In
138 order to be eligible for recovered costs incurred under
139 paragraph (d), a wireless provider must submit sworn invoices to
140 the board by December 31, 2007. The board must disburse the

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141 designated funds in the wireless 911 system fund on or after
142 January 1, 2008.

143 (f) One percent of the moneys in the fund shall be
144 retained by the board to be applied to costs and expenses
145 incurred for the purposes of managing, administering, and
146 overseeing the receipts and disbursements from the fund and
147 other activities as defined in s. 365.172(6). Any funds retained
148 for such purposes in a calendar year which are not applied to
149 such costs and expenses by March 31 of the following year shall
150 be redistributed as determined by the board.

151 (g) ~~(e)~~ Two percent of the moneys in the fund shall be used
152 to make monthly distributions to rural counties for the purpose
153 of providing facilities and network and service enhancements and
154 assistance for the 911 or E911 systems operated by rural
155 counties and for the provision of ~~reimbursable loans and grants~~
156 by the office to rural counties for upgrading and replacing E911
157 911 systems.

158 (h) By September 1, 2007, up to \$15 million of the
159 existing 911 system fund shall be available for distribution by
160 the board to the counties in order to prevent a loss in the
161 ordinary and expected time value of money caused by any timing
162 delay in remittance to the counties of wireline fees caused by
163 the one-time transfer of collecting wireline fees by the
164 counties to the board. All disbursements for this purpose must
165 be returned to the fund from the future remittance by the
166 nonwireless category.

167 (i) If the wireless category has funds remaining in it on
168 December 31 after disbursements have been made during the

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169 calendar year immediately prior to December 31, the board may
 170 disburse the excess funds in the wireless category in accordance
 171 with s. 365.172(6)(a)3.b.

172
 173 The Legislature recognizes that the ~~wireless E911~~ fee authorized
 174 under s. 365.172 may ~~will~~ not necessarily provide the total
 175 funding required for establishing or providing the E911 ~~911~~
 176 service. It is the intent of the Legislature that all revenue
 177 from the fee be used as specified in this subsection ~~s.~~
 178 ~~365.171(13)(a)6.~~

179 (3) ~~Through fiscal year 2008-2009,~~ The Auditor General
 180 shall annually audit the fund to ensure that moneys in the fund
 181 are being managed in accordance with this section and s.
 182 365.172. The Auditor General shall provide a report of the
 183 annual audit to the board.

184 Section 2. This act shall take effect upon becoming a law,
 185 if House Bill 919 or similar legislation is adopted in the
 186 legislative session or an extension thereof and becomes law.