

By the Committees on Judiciary; and Communications, Energy, and Public Utilities; and Senator Bennett

590-03807-10

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1                   A bill to be entitled  
2           An act relating to prepaid wireless  
3           telecommunications; amending s. 365.172, F.S.;  
4           removing provisions for a study of the feasibility of  
5           collecting a fee for prepaid wireless  
6           telecommunications service; delaying a provision that  
7           requires an assessment on or collection of a fee for a  
8           prepaid calling arrangement; amending s. 365.173,  
9           F.S.; revising the percentage of total funds that a  
10          county may carry forward to pay certain costs  
11          associated with the county's E911 or 911 system, to  
12          contract for E911 services, and to reimburse wireless  
13          telephone service providers for costs incurred to  
14          provide such services; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Paragraph (a) of subsection (8) of section  
19           365.172, Florida Statutes, is amended to read:

20           365.172 Emergency communications number "E911."—

21           (8) E911 FEE.—

22           (a) Each voice communications services provider shall  
23           collect the fee described in this subsection. Each provider, as  
24           part of its monthly billing process, shall bill the fee as  
25           follows. The fee shall not be assessed on any pay telephone in  
26           the state.

27           1. Each local exchange carrier shall bill the fee to the  
28           local exchange subscribers on a service-identifier basis, up to  
29           a maximum of 25 access lines per account bill rendered.

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30           2. Except in the case of prepaid wireless service, each  
31 wireless provider shall bill the fee to a subscriber on a per-  
32 service-identifier basis for service identifiers whose primary  
33 place of use is within this state. Before July 1, 2013 ~~2009~~, the  
34 fee shall not be assessed on or collected from a provider with  
35 respect to an end user's service if that end user's service is a  
36 prepaid calling arrangement that is subject to s. 212.05(1)(e).

37           a. ~~The board shall conduct a study to determine whether it~~  
38 ~~is feasible to collect E911 fees from the sale of prepaid~~  
39 ~~wireless service. If, based on the findings of the study, the~~  
40 ~~board determines that a fee should not be collected from the~~  
41 ~~sale of prepaid wireless service, it shall report its findings~~  
42 ~~and recommendation to the Governor, the President of the Senate,~~  
43 ~~and the Speaker of the House of Representatives by December 31,~~  
44 ~~2008.~~ If the board determines that a fee should be collected  
45 from the sale of prepaid wireless service, the board shall  
46 collect the fee beginning July 1, 2013 ~~2009~~.

47           b. For purposes of this section, the term:

48           (I) "Prepaid wireless service" means the right to access  
49 telecommunications services that must be paid for in advance and  
50 is sold in predetermined units or dollars enabling the  
51 originator to make calls such that the number of units or  
52 dollars declines with use in a known amount.

53           (II) "Prepaid wireless service providers" includes those  
54 persons who sell prepaid wireless service regardless of its  
55 form, either as a retailer or reseller.

56           c. The study must include an evaluation of methods by which  
57 E911 fees may be collected from end users and purchasers of  
58 prepaid wireless service on an equitable, efficient,

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59 competitively neutral, and nondiscriminatory basis and must  
60 consider whether the collection of fees on prepaid wireless  
61 service would constitute an efficient use of public funds given  
62 the technological and practical considerations of collecting the  
63 fee based on the varying methodologies prepaid wireless service  
64 providers and their agents use in marketing prepaid wireless  
65 service.

66 d. The study must include a review and evaluation of the  
67 collection of E911 fees on prepaid wireless service at the point  
68 of sale within the state. This evaluation must be consistent  
69 with the collection principles of end user charges such as those  
70 in s. 212.05(1)(e).

71 e. No later than 90 days after this section becomes law,  
72 the board shall require all prepaid wireless service providers,  
73 including resellers, to provide the board with information that  
74 the board determines is necessary to discharge its duties under  
75 this section, including information necessary for its  
76 recommendation, such as total retail and reseller prepaid  
77 wireless service sales.

78 f. All subscriber information provided by a prepaid  
79 wireless service provider in response to a request from the  
80 board while conducting this study is subject to s. 365.174.

81 g. The study shall be conducted by an entity competent and  
82 knowledgeable in matters of state taxation policy if the board  
83 does not possess that expertise. The study must be paid from the  
84 moneys distributed to the board for administrative purposes  
85 under s. 365.173(2)(f) but may not exceed \$250,000.

86 3. All voice communications services providers not  
87 addressed under subparagraphs 1. and 2. shall bill the fee on a

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88 per-service-identifier basis for service identifiers whose  
89 primary place of use is within the state up to a maximum of 25  
90 service identifiers for each account bill rendered.

91  
92 The provider may list the fee as a separate entry on each bill,  
93 in which case the fee must be identified as a fee for E911  
94 services. A provider shall remit the fee to the board only if  
95 the fee is paid by the subscriber. If a provider receives a  
96 partial payment for a monthly bill from a subscriber, the amount  
97 received shall first be applied to the payment due the provider  
98 for providing voice communications service.

99 Section 2. Paragraph (c) of subsection (2) of section  
100 365.173, Florida Statutes, is amended to read:

101 365.173 Emergency Communications Number E911 System Fund.—

102 (2) As determined by the board pursuant to s.  
103 365.172(8)(h), and subject to any modifications approved by the  
104 board pursuant to s. 365.172(6)(a)3. or (8)(i), the moneys in  
105 the fund shall be distributed and used only as follows:

106 (c) Any county that receives funds under paragraphs (a) and  
107 (b) shall establish a fund to be used exclusively for the  
108 receipt and expenditure of the revenues collected under  
109 paragraphs (a) and (b). All fees placed in the fund and any  
110 interest accrued shall be used solely for costs described in  
111 subparagraphs (a)1. and 2. The money collected and interest  
112 earned in this fund shall be appropriated for these purposes by  
113 the county commissioners and incorporated into the annual county  
114 budget. The fund shall be included within the financial audit  
115 performed in accordance with s. 218.39. A county may carry  
116 forward up to 30 ~~20~~ percent of the total funds disbursed to the

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117 county by the board during a calendar year for expenditures for  
118 capital outlay, capital improvements, or equipment replacement,  
119 if such expenditures are made for the purposes specified in  
120 subparagraphs (a)1. and 2.; however, the 30 percent ~~20 percent~~  
121 limitation does not apply to funds disbursed to a county under  
122 s. 365.172(6)(a)3., and a county may carry forward any  
123 percentage of the funds, except that any grant provided shall  
124 continue to be subject to any condition imposed by the board. In  
125 order to prevent an excess recovery of costs incurred in  
126 providing E911 service, a county that receives funds greater  
127 than the permissible E911 costs described in s. 365.172(9),  
128 including the 30 ~~20~~ percent carryforward allowance, must return  
129 the excess funds to the E911 board to be allocated under s.  
130 365.172(6)(a).

131  
132 The Legislature recognizes that the fee authorized under s.  
133 365.172 may not necessarily provide the total funding required  
134 for establishing or providing the E911 service. It is the intent  
135 of the Legislature that all revenue from the fee be used as  
136 specified in this subsection.

137 Section 3. This act shall take effect July 1, 2010.