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CS/CS/HB 163, Engrossed 1

2010 Legislature

1 A bill to be entitled
 2 An act relating to prepaid wireless telecommunications
 3 service; amending s. 365.172, F.S.; removing provisions
 4 for a study of the feasibility of collecting an E911 fee
 5 on the sale of prepaid wireless telecommunications
 6 service; prohibiting collection of the fee until after a
 7 certain date; amending s. 365.173, F.S.; revising a
 8 limitation on the amount of funds received by a county
 9 from the E911 fee which may be carried forward to the
 10 following year; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Paragraph (a) of subsection (8) of section
 15 365.172, Florida Statutes, is amended to read:

16 365.172 Emergency communications number ~~"E911."~~

17 (8) E911 FEE.—

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

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

26 2. Except in the case of prepaid wireless service, each
 27 wireless provider shall bill the fee to a subscriber on a per-
 28 service-identifier basis for service identifiers whose primary

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

ENROLLED

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2010 Legislature

29 place of use is within this state. Before July 1, 2013 ~~2009~~, the
 30 fee shall not be assessed on or collected from a provider with
 31 respect to an end user's service if that end user's service is a
 32 prepaid calling arrangement that is subject to s. 212.05(1)(e).

33 a. No E911 fee shall be collected from the sale of prepaid
 34 wireless service prior to July 1, 2013. ~~The board shall conduct~~
 35 ~~a study to determine whether it is feasible to collect E911 fees~~
 36 ~~from the sale of prepaid wireless service. If, based on the~~
 37 ~~findings of the study, the board determines that a fee should~~
 38 ~~not be collected from the sale of prepaid wireless service, it~~
 39 ~~shall report its findings and recommendation to the Governor,~~
 40 ~~the President of the Senate, and the Speaker of the House of~~
 41 ~~Representatives by December 31, 2008. If the board determines~~
 42 ~~that a fee should be collected from the sale of prepaid wireless~~
 43 ~~service, the board shall collect the fee beginning July 1, 2009.~~

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

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

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

53 e. ~~The study must include an evaluation of methods by~~
 54 ~~which E911 fees may be collected from end users and purchasers~~
 55 ~~of prepaid wireless service on an equitable, efficient,~~
 56 ~~competitively neutral, and nondiscriminatory basis and must~~

ENROLLED

CS/CS/HB 163, Engrossed 1

2010 Legislature

57 ~~consider whether the collection of fees on prepaid wireless~~
58 ~~service would constitute an efficient use of public funds given~~
59 ~~the technological and practical considerations of collecting the~~
60 ~~fee based on the varying methodologies prepaid wireless service~~
61 ~~providers and their agents use in marketing prepaid wireless~~
62 ~~service.~~

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

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

75 ~~f. All subscriber information provided by a prepaid~~
76 ~~wireless service provider in response to a request from the~~
77 ~~board while conducting this study is subject to s. 365.174.~~

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

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

ENROLLED

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2010 Legislature

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

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

96 Section 2. Paragraph (c) of subsection (2) of section
97 365.173, Florida Statutes, is amended to read:

98 365.173 Emergency Communications Number E911 System Fund.—

99 (2) As determined by the board pursuant to s.

100 365.172(8)(h), and subject to any modifications approved by the
101 board pursuant to s. 365.172(6)(a)3. or (8)(i), the moneys in
102 the fund shall be distributed and used only as follows:

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

ENROLLED

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2010 Legislature

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

128
129 The Legislature recognizes that the fee authorized under s.
130 365.172 may not necessarily provide the total funding required
131 for establishing or providing the E911 service. It is the intent
132 of the Legislature that all revenue from the fee be used as
133 specified in this subsection.

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