

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 355

Public Safety Telecommunicators

**SPONSOR(S):** Military & Local Affairs Policy Committee, Health Care Regulation Policy Committee, Roberson, K. and others

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 742

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Regulation Policy Committee	14 Y, 0 N, As CS	Holt	Calamas
2)	Military & Local Affairs Policy Committee	13 Y, 0 N, As CS	Noriega	Hoagland
3)	Health Care Appropriations Committee			
4)	Health & Family Services Policy Council			
5)				

### SUMMARY ANALYSIS

In 2008, the Legislature established a voluntary certification program for 911 emergency dispatchers. This bill makes the certification program mandatory and affects approximately 6,000 911 public safety telecommunicators responsible for answering, receiving, and transferring 911 calls, and for dispatching emergency services throughout the state.

The bill provides requirements for mandatory certification that include: education and training standards, continuing education, disciplinary provisions, and applicable fees. The grandfather clause created under the voluntary certification scheme allowed individuals with five years of full-time employment as a 911 public safety telecommunicator to qualify for certification. However, the bill provides that the grandfather clause expires on October 1, 2012, and all individuals seeking certification after this date must complete an approved 232-hour 911 public safety telecommunication training program and pass an examination.

Because this bill establishes the regulation of a new profession, the Sunrise Act criteria apply. Section 11.62, F.S., states that it is the intent of the Legislature that no profession or occupation be subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage; and no profession or occupation be regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation.

The bill provides a statement of public interest pursuant to Article VII, section 18 of the Florida Constitution.

This bill authorizes the use of funds from the Emergency Communications Number E911 System Fund to cover dispatching functions and the initial certification and renewal fees for 911 public safety telecommunicators.

The Department of Health (DOH) has indicated that it will need one full-time equivalent (FTE) employee, and that the collected certification fees will have a positive fiscal impact on the Emergency Medical Services Trust Fund within DOH. The Department of Management Services (DMS) has indicated that this bill will have a negative fiscal impact on the Emergency Communications Number E911 System Fund within DMS. The fiscal impact to other state agencies is indeterminate at this time.

The Revenue Estimating Conference (REC) has not met to address this bill in an Impact Conference. However, staff estimates that the provisions of this bill will have an indeterminate negative fiscal impact on local government revenues (see Fiscal section of the analysis).

The bill takes effect on July 1, 2010.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

In 2008, the Legislature established a voluntary certification program for 911 emergency dispatchers.<sup>1</sup> This bill makes the "911 public safety telecommunicator" (previously called "911 emergency dispatcher") certification program mandatory.

#### **CURRENT SITUATION**

##### **FLORIDA'S PUBLIC POLICY ON 911 SERVICES**

Section 365.171, F.S., sets forth the provisions governing Florida's public policy on the emergency telephone number "911." The provision specifies that it is the intent of the Legislature to:<sup>2</sup>

"establish and implement a cohesive statewide emergency telephone number "911" plan which will provide citizens with rapid direct access to public safety agencies by dialing the telephone number '911' with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services."

##### **PUBLIC SAFETY AGENCIES AND PUBLIC SAFETY ANSWERING POINTS**

A public safety agency (PSA) is a functional division of a public agency<sup>3</sup> which provides firefighting, law enforcement, medical, or other emergency services.<sup>4</sup> A PSA operates public safety answering points (PSAPs) or 911 call centers. There are 208 primary PSAPs, 29 secondary PSAPs, and 42 backup PSAPs for a total of 279 PSAPs throughout the state.<sup>5</sup> Staff in these call centers include call takers, dispatchers, and dual call takers/dispatchers.<sup>6</sup> Call takers answer calls and record necessary information such as the caller's name and the nature of the emergency, and relay this information to the

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<sup>1</sup> Chapter 2008-51, L.O.F.

<sup>2</sup> Section 365.171(2), F.S.

<sup>3</sup> A "public agency" is any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services. See s. 365.171(2)(c), F.S.

<sup>4</sup> Section 365.171(2)(d), F.S.

<sup>5</sup> State of Florida E911 Board 2008 Annual Report, February 28, 2009 available at:

[http://dms.myflorida.com/suncom/public\\_safety\\_bureau/florida\\_e911/e911\\_board](http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911/e911_board) (last viewed on February 8, 2010).

<sup>6</sup> Office of Program Policy Analysis & Government Accountability, 911 Call Center Training in Florida Varies; Options Exist for Creating Minimum Standards. Report No. 10-12. available at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=10-12> (last viewed on February 9, 2010).

dispatchers who assess the information, determine the type of emergency response needed, and direct appropriate emergency series (e.g., police, fire, or ambulance) to respond to the call.<sup>7</sup>

## TYPES OF 911 CALLS

In fiscal year 2007-2008, there were approximately 14 million 911 calls across the state and these calls were handled by approximately 4,800 911 call takers.<sup>8</sup> There are five methods of handling 911 calls.<sup>9</sup> County 911 systems use a combination of these methods depending on the type of 911 system and the nature of each particular call.

1. Direct Dispatch - An emergency call received at a 911 PSA, which has the responsibility for dispatching emergency vehicles for that particular emergency, is handled with the direct dispatch method. The person answering the call functions as a call taker and conveys the necessary information to a radio dispatcher. For small 911 PSAPs, the person answering the call may also handle the radio dispatching function. Calls handled by the direct dispatch method minimize the time required for a citizen to be connected to the call taker. Direct dispatch is the preferred method of handling 911 calls in order to minimize the response time to the greatest possible extent.
2. Call Transfer - An emergency call received at a 911 PSAP intended for a PSA remotely located from the PSAP is handled with the call transfer method. After the call taker has determined the proper remote agency, the caller is transferred to that agency's call taker. The PSAP call taker remains on the line until the agency answers and until the correctness of the transfer is ascertained. With enhanced systems, the transfer switching is often done at the service provider's central office, and the transfer line originates at that central office. This method is often used where the expected call volume is not large enough to warrant the cost of a dedicated transfer line.
3. Transfers of Voice and Data - Agencies receiving transfers of both voice and data are referred to as Secondary PSAPs. These facilities often act as a back-up if there is a failure in the Primary PSAP.
4. Call Relay - The call relay method, like the call transfer method, is used to convey information to a remotely located agency; however, the information is transferred to the remote agency rather than the caller. This method is suited for use with agencies that do not have a large call volume. The call relay method is sometimes the best approach if the caller is too emotionally distressed to be transferred. The overall response time of a voice-relayed call is longer than other call handling methods. Therefore, the use of this method should be minimized to the greatest possible extent.
5. Call Referral - Non-emergency and administrative calls received by a 911 PSAP may be handled by the call referral method. Call referral must never be used for an emergency call. In Florida, as well as nationally, experience has established that not all 911 calls are true emergencies. Many calls are administrative or of a non-emergency nature and can be handled by the call referral method to keep PSAP lines open. It is recognized that in some areas the treatment of administrative and emergency calls is essentially the same. This tends to be the case in the more rural areas of Florida.

## 911 EMERGENCY DISPATCHERS

According to the United States Department of Labor, emergency dispatchers monitor the location of emergency services personnel from one or all of the jurisdiction's emergency services departments. These workers dispatch the appropriate type and number of units in response to calls for assistance.

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<sup>7</sup> Ibid.

<sup>8</sup> State of Florida E911 Board 2008 Annual Report, February 28, 2009 available at: [http://dms.myflorida.com/suncom/public\\_safety\\_bureau/florida\\_e911/e911\\_board](http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911/e911_board) (last viewed on February 8, 2010).

<sup>9</sup> Ibid.

Dispatchers are often the first point of contact for the public when emergency assistance is required. If trained for emergency medical services, the dispatcher may provide medical instruction to those persons on the scene of the emergency until the medical staff arrives.<sup>10</sup>

When handling calls, dispatchers question each caller to determine the type, seriousness, and location of the emergency. The information obtained is generally posted electronically by computer. The dispatcher then decides the priority of the incident, the kind and number of units needed, and the location of the closest and most suitable units available. When appropriate, dispatchers stay in contact with other service providers. In a medical emergency, dispatchers keep in touch not only with the dispatched units, but also with the caller. Dispatchers may give extensive first-aid instructions before the emergency personnel arrives. Dispatchers also continuously give updates on the patient's condition to the ambulance personnel and often serve as a link between the medical staff in a hospital and the emergency medical technicians in the ambulance.<sup>11</sup>

## DEPARTMENT OF EDUCATION CURRICULUM FRAMEWORK AND STANDARDS

The Division of Workforce Education at the Department of Education (DOE) publishes curriculum frameworks and standards aligned to the sixteen Career Clusters delineated by the United States Department of Education. Each program's course standards are composed of two parts: a curriculum framework and the student performance standards. The curriculum framework includes four major sections: major concepts/content, laboratory activities, special notes, and intended outcomes. Student performance standards are listed for each intended outcome.<sup>12</sup> According to DOE, the curriculum is reviewed every three years.

The public safety telecommunication program is designed to prepare students for employment as a police, fire, ambulance, or emergency medical dispatcher. The program is divided into two levels. The first level, "Occupational Completion Point A," is a 208-hour curriculum designed for police, fire, and ambulance dispatchers. The second level, "Occupational Completion Point B," is to be completed after the first level through a minimum of an additional 24-hour curriculum designed for emergency medical dispatchers.<sup>13</sup> The course content includes, but is not limited to:

- Ethics and the role of the telecommunicator;
- Standard telecommunication operating procedures;
- Relationship to field personnel;
- Understanding of command levels;
- Typical layouts of message centers;
- Use of performance aids;
- Overview of emergency agencies;
- Communications equipment, functions and terminology;
- Types of telecommunication equipment;
- Proper and correct telephone and dispatching procedures and techniques;
- Cooperation and reciprocal agreements with other agencies;
- Federal, state, and local communication rules;
- Emergency situations and operating procedures;
- Emergency medical dispatch procedures; and
- Health and safety issues to include Cardiopulmonary Resuscitation (CPR).

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<sup>10</sup> United States Department of Labor, Bureau of Labor Statistics, "Occupational Outlook Handbook - Dispatchers," <http://www.bls.gov/oco/ocos138.htm> (last visited on February 10, 2010).

<sup>11</sup> Ibid.

<sup>12</sup> Florida Department of Education, "Curriculum Framework, Public Safety Telecommunication," July 2010.

<sup>13</sup> Ibid.

## VOLUNTARY EMERGENCY DISPATCHER CERTIFICATION PROGRAM

In 2008, the Legislature established a voluntary certification program for 911 emergency dispatchers that was implemented by the Florida Department of Health (DOH).<sup>14</sup> As of January 2010, DOH reported that 1,112 individuals had applied for and received certification.<sup>15</sup> Current law defines a "911 emergency dispatcher" as a person who is employed by a state agency or local government as a public safety dispatcher or 911 operator whose duties and responsibilities include:<sup>16</sup>

- Answering 911 calls;
- Dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency;
- Providing real-time information from federal, state, and local crime databases; or
- Supervising or serving as the command officer to a person or persons having such duties and responsibilities.

The definition of 911 dispatcher does not include administrative support personnel, including, but not limited to, those persons whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel.

Applicants for certification must submit specified forms, pay a certification fee,<sup>17</sup> and meet the educational and training requirements for certification and recertification as a 911 emergency dispatcher.<sup>18</sup> DOH determines whether the applicant meets the requirements for certification and issues a certificate to any person who meets the following requirements:<sup>19</sup>

- Five years of documented full-time supervised experience as a 911 emergency dispatcher since January 1, 2002 ("grandfather clause"); *or*
- Completion of an appropriate 911 emergency dispatcher training program that is equivalent to the most recently approved DOE emergency dispatcher course and that consists of not less than 208 hours;
- Completion and documentation of at least 2 years of supervised full-time employment as a 911 emergency dispatcher since January 1, 2002;
- Certification under oath that the applicant is not addicted to alcohol or any controlled substance;
- Certification under oath that the applicant is free from any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties;
- Submission of the application fee prescribed in subsection (3); *and*
- Submission of a completed application to DOH indicating compliance with the requirements for certification.<sup>20</sup>

Of the 1,112 certified 911 dispatchers identified by DOH, all but three qualified for certification under the grandfather clause.<sup>21</sup> The remaining three individuals qualified for certification by having two years of supervised full-time employment and by completing an approved training program.<sup>22</sup> As of December

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<sup>14</sup> Chapter 2008-51, L.O.F.

<sup>15</sup> According to OPPAGA Report No. 10-12, as of December 2009, two local government agencies and one Florida college offered training programs approved by the Department of Health. However, the Sunrise Questionnaire states that three Florida colleges currently offer training programs.

<sup>16</sup> Section 401.465(1), F.S.

<sup>17</sup> The fee for initial certification is \$75 and biannual renewal is \$100.

<sup>18</sup> Section 401.465(2)(a), F.S.

<sup>19</sup> Section 401.465(2)(b), F.S.

<sup>20</sup> Application is done through DH Form 5066. (64J-3.001, F.A.C.).

<sup>21</sup> Office of Program Policy Analysis & Government Accountability, 911 Call Center Training in Florida Varies; Options Exist for Creating Minimum Standards. Report No. 10-12. available at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=10-12> (last viewed on February 9, 2010).

<sup>22</sup> Ibid.

2009, there were two local government agencies and one Florida college that offered a DOH approved training program.<sup>23</sup>

Each 911 emergency dispatcher certificate expires automatically if not renewed at the end of the two-year period. A certificate that is not renewed at the end of the two-year period automatically reverts to an inactive status for a period that may not exceed 180 days and may be reactivated and renewed within the 180-day period if the certificate-holder meets the qualifications for renewal and pays a \$50 late fee.<sup>24</sup> DOH may suspend or revoke a certificate at any time if it determines that the certificate-holder does not meet the applicable qualifications.<sup>25</sup>

Section 401.411, F.S., provides for disciplinary action, such that DOH may deny, suspend, or revoke a license, certificate, or permit or may reprimand or fine a 911 emergency dispatcher certificate-holder on any of the following grounds:

- Addiction to alcohol or any controlled substance;
- Engaging in or attempting to engage in the possession, except in legitimate duties under the supervision of a licensed physician, or the sale or distribution of any controlled substance as set forth in chapter 893;
- A conviction in any court in any state or in any federal court of a felony, unless the person's civil rights have been restored;
- Knowingly making false or fraudulent claims; procuring, attempting to procure, or renewing a certificate, license, or permit by fakery, fraudulent action, or misrepresentation;
- Sexual misconduct with a patient, including inducing or attempting to induce the patient to engage, or engaging or attempting to engage the patient, in sexual activity;
- Failure to give DOH true information upon request regarding an alleged or confirmed violation;
- Practicing as an emergency medical technician, paramedic, or other health care professional operating under this part without reasonable skill and safety to patients by reason of illness, drunkenness, or the use of drugs, narcotics, or chemicals or any other substance or as a result of any mental or physical condition;
- Fraudulent or misleading advertising or advertising in an unauthorized category; and
- Failure to report to DOH any person known to be in violation these disciplinary provisions.

Unprofessional conduct, such as failing to conform to the prevailing standards of acceptable practice, is not a basis for disciplinary action.<sup>26</sup>

## 911 SYSTEM FUNDING

E911 fee revenues are collected pursuant to s. 365.172(8), F.S., and are processed and disbursed through the Emergency Communications Number E911 System Fund (or "E911 Trust Fund").<sup>27</sup> Expenditures for the E911 system are limited to call taking and call transfers and do not include costs associated with the dispatching or training of dispatch personnel.<sup>28</sup> The E911 Board has determined that training and certification costs for 911 call takers are allowable expenditures. Thus, funding for call taker training is paid primarily through E911 funds and dispatcher training is paid primarily through local funding sources.<sup>29</sup> While call taking and call taking training have been determined to be allowable expenditures by the E911 Board, the E911 Trust Fund currently does not receive enough revenue to

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<sup>23</sup> Office of Program Policy Analysis & Government Accountability, 911 Call Center Training in Florida Varies; Options Exist for Creating Minimum Standards. Report No. 10-12. available at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=10-12> (last viewed on February 9, 2010).

<sup>24</sup> Section 401.465(2)(d), F.S.

<sup>25</sup> Section 401.465(2)(e), F.S.

<sup>26</sup> Unprofessional conduct is, however, a basis for discipline of emergency medical technicians and paramedics. S. 401.411(1)(g), F.S.

<sup>27</sup> Section 365.173, F.S.

<sup>28</sup> Section 365.172(9), F.S.

<sup>29</sup> Office of Program Policy Analysis & Government Accountability, 911 Call Center Training in Florida Varies; Options Exist for Creating Minimum Standards. Report No. 10-12. available at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=10-12> (last viewed on February 9, 2010).



support all allowable expenditures.<sup>30</sup> In its 2008 Annual Report, the E911 Board reported to the Legislature that the fee revenue only covered 66 percent of the allowable expenditures. According to s. 365.173, F.S., the Legislature recognized that the E911 fee may not necessarily provide the total funding required for establishing or providing the E911 service.

In the Enhance 911 Services Act,<sup>31</sup> Congress found that, “any funds that are collected from fees imposed on consumer bills for the purposes of funding 911 services or E911 should be expended for the purposes for which the funds are collected.”<sup>32</sup>

## **PROFESSIONAL REGULATION AND THE FLORIDA SUNRISE ACT**

There are three different types or levels of regulation:<sup>33</sup>

1. Licensure is the most restrictive form of state regulation. Under licensure laws, it is illegal for a person to practice a profession without first meeting all of the standards imposed by the state;
2. Certification grants title protection to those who meet training and other standards. Those who do not meet certification standards cannot use the title, but can still perform the services; and
3. Registration is the least restrictive form of regulation and usually only requires individuals to file their name, address, and qualifications with a government agency before practicing the occupation.

This bill requires that all individuals employed as a 911 public safety telecommunicator by a PSAP must be *certified* by DOH by October 1, 2012.

Section 456.003, F.S., provides that health care professions be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions shall be regulated when:

- Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation;
- The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation; and
- Less restrictive means of regulation are not available.

Section 11.62, F.S., the Sunrise Act, provides legislative intent regarding the regulation of new professions and occupations:<sup>34</sup>

- No profession or occupation is subject to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the police power of the state be exercised only to the extent necessary for that purpose; and
- No profession or occupation is regulated by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the professional or occupational services to the public.

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<sup>30</sup> Department of Management Services, 2010 Legislative Bill Analysis of House Bill 355 (February 9, 2010).

<sup>31</sup> Public Law 108-494, 108th Congress SEC. 102.(3).

<sup>32</sup> State of Florida E911 Board 2008 Annual Report, February 28, 2009 *available at*:

[http://dms.myflorida.com/suncom/public\\_safety\\_bureau/florida\\_e911/e911\\_board](http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911/e911_board) (last viewed on February 8, 2010).

<sup>33</sup> Schmitt, K. & Shimberg, B. (1996). *Demystifying Occupational and Professional Regulation: Answers to Questions You May Have Been Afraid to Ask. Council on Licensure, Enforcement, and Regulation.*

<sup>34</sup> Section 11.62(2), F.S.

In determining whether to regulate a profession or occupation, s. 11.62(3), F.S., requires the Legislature to consider the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The Sunrise Act requires proponents of regulation to submit information documenting the need for the proposed regulation. A sunrise questionnaire was submitted by the Florida Association of Public Safety Communications Officials (FAPCO). FAPCO represents 675 active members who, according to FAPCO, support requiring the certification of public safety telecommunicators.

## **SUNRISE ACT CRITERIA**

### **Substantial Harm or Endangerment**

"Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote."<sup>35</sup>

Errors in 911 call taking and/or dispatching have led to adverse outcomes.<sup>36</sup> Currently, each PSA conducts individual quality assurance and compliance reviews, and complaints against 911 call center staff are not published, so the exact impact is unknown.

### **Specialized Skill or Training, and Measurability**

"Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability."<sup>37</sup>

Currently, the training of 911 call center staff is not consistent across the state and there are no universal training requirements. The vast majority of the staff receives on-the-job training that is tailored to each PSA's needs. The DOE curriculum framework proposed in the bill would provide consistent measurable and quantifiable examination and training requirements statewide. There does not appear to be a national examination or certification process currently available for 911 dispatchers/call takers, so a state-administered examination would need to be created to accomplish the purpose of this bill.

According to proponents, 22 states currently have training standards. It appears that the training standards vary greatly. The Association of Public Safety Communication Officials (APCO) has published minimum training standards for public safety telecommunicators requiring 14 hours of additional training that should be conducted within the first 12 months of employment.

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<sup>35</sup> Section 11.62(3), F.S.

<sup>36</sup> According to the OPPAGA Report No. 10-12, in 2008, Denise Amber Lee was abducted from her home and murdered after calling 911 to report her own abduction. According to the Sunrise Questionnaire, a dispatcher was fired in Orlando for misprioritizing a 911 call related to a March 2009 murder-suicide.

<sup>37</sup> Section 11.62(3), F.S.



## **Unreasonable Effect on Job Creation or Job Retention**

“Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment.”<sup>38</sup>

Currently, there is high turnover of 911 call center staff. Regulation will have an effect on jobs by requiring individuals to have a minimum competency level, which is currently not required. Under this bill, starting in October 2012, individuals who cannot pass the examination and cannot successfully complete the 232-hour training program will not be able to practice as public safety telecommunicators.

## **Can the Public be Effectively Protected by Other Means?**

“Whether the public is or can be effectively protected by other means.”<sup>39</sup>

Currently, there is a voluntary certification process. Counties, cities, and state agencies can require individuals to become certified and not hire individuals unless they are certified.

## **Favorable Cost-effectiveness and Economic Impact**

“Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.”<sup>40</sup>

The actual cost to state, city, and county entities is indeterminate at this time. However, mandatory regulation will impact approximately 6,000 call center staff. The average full-time dispatcher salary is \$16.06 per hour. Usually, once a profession becomes regulated, it demands a higher salary commensurate with the education level. This bill proposes utilizing E911 funds to support certification fees. Currently, E911 funds only support 66 percent of current expenditures. Consumer phone bills may be increased if E911 fees need to be raised to support expenditures associated with the regulation of 911 public safety telecommunicators.

## **EFFECT OF THE PROPOSED CHANGES**

This bill provides that, effective October 1, 2012, any person serving at a PSAP as a 911 public safety telecommunicator must be certified by DOH. The bill also provides requirements for mandatory certification that include: education and training standards, continuing education, disciplinary provisions, and applicable fees.

The bill provides an exception for uncertified trainees: a PSA may employ a 911 public safety telecommunicator trainee for a period not to exceed 12 months, as long as the trainee is under the direct supervision of a certified dispatcher and enrolled in a public safety telecommunication training program.

The grandfather clause in current law is unaffected by the bill, but will expire on October 1, 2012: individuals with five years of documented, supervised full-time employment as 911 public safety telecommunicators may qualify for certification without completing an approved training program and passing an examination. However, because the bill provides that the grandfather clause expires on October 1, 2012, all individuals seeking certification after this date must complete an approved 232-hour 911 public safety telecommunication training program and pass an examination.

The bill defines “public safety telecommunication training program” as any program consisting of at least 232 hours that DOH determines to be equivalent to the most recent public safety

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<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

telecommunication training program curriculum framework developed by DOE. The bill requires 20 hours of continuing education training at the time of certificate renewal. The bill provides DOH the authority to promulgate rules for the continuing education procedures and the approval process for the 911 public safety telecommunication training programs.

The bill changes the term “911 emergency dispatcher” to “911 public safety telecommunicator.” The bill amends the definition of 911 public safety telecommunicator to include receiving, transferring, and dispatching functions relating to 911 calls. The bill also amends the disciplinary provisions in s. 401.411, F.S., to ensure that 911 public safety telecommunicators are subject to the same disciplinary actions as EMTs and paramedics.

The bill provides a State of Emergency waiver for the 911 public safety telecommunicator certification requirements when the Governor declares a state of emergency as defined in s. 252.36, F.S.

The bill also provides a statement of public interest pursuant to Article VII, s. 18 of the Florida Constitution.

The bill authorizes the use of funds from the Emergency Communications Number E911 System Fund to cover dispatching functions and the initial certification and renewal fees for 911 public safety telecommunicators.

The bill also authorizes DOH to charge a fee not exceed \$50 for the approval a public safety telecommunication training program, a \$50 fee for initial application, a \$50 fee for certification renewal, and a \$75 fee for the examination. Current law provides that these fees must be deposited into the Emergency Medical Services Trust Fund within DOH, and may only be used to support salaries and expenses incurred in administering this program.

The bill takes effect on July 1, 2010.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 365.172, F.S., relating to emergency communications number.

Section 2. Amends s. 401.411, F.S., relating to disciplinary actions and penalties.

Section 3. Amends s. 401.465, F.S., relating to 911 public safety telecommunicator certification.

Section 4. Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### **Summary**

The fiscal impact mainly addresses the following four areas:

- Cost incurred by DOH to regulate 911 public safety telecommunicators.
- Cost incurred by DOE for the review and approval of 911 public safety telecommunicator training programs.
- Cost incurred by state, city, and local governments:
  - Cost to provide in-house training or send employees to an outside entity that offers a 232-hour, DOH-approved training program;
  - Initial application and renewal fees associated with certification as public safety telecommunicators; and
  - Fee to have the 232-hour training program reviewed for approval by DOH.
- E911 Trust Fund authorized expenditures and sustainability of E911 funds.

Section 216.0236, F.S., states that it is the intent of the Legislature that all costs of providing a regulatory service or regulating a profession or business be borne solely by those who receive the service or who are subject to regulation. It is also the intent of the Legislature that the fees charged for providing a regulatory service or regulating a profession or business are reasonable and take into account the differences between the types of professions or businesses being regulated.

1. Revenues:

DOH, Division of Emergency Medical Operations, estimates that there is currently one emergency dispatcher for every 3,229 Florida residents. By applying the annual growth rate of 2.3 percent to the profession, the estimated increase in 911 public safety telecommunicators will be 6,171 in 2010, 6,312 in 2011, and 6,457 in 2012. By current projections, the remaining certification pool after the 2009 certification cycle ends will include 4,933 potential applicants in 2010. It is estimated that half of the remaining licensees will apply in 2010 (2,465 applicants), and that the residual applicants will apply in 2011 (2,521 applicants, adjusted for the annual growth rate). This two-year period (2010 and 2011) represents the initial surge of applicants.<sup>41</sup>

The bill states that the initial and renewal application fee for the 911 public safety telecommunicator is \$50 and that the examination fee may not exceed \$75. Since the majority of individuals who are certified under the voluntary certification program qualified via the grandfather clause, the majority of individuals would likely seek certification via this avenue in fiscal years 2010 and 2011. But, because the grandfather clause will expire on October 1, 2012, it is projected that about half of the initial registrants would take the examination in 2012.

Based on information gathered from each county's State of Florida Emergency Telephone Number 911 Plan from DMS, there are at least 251 PSAPs that could be certified as public safety telecommunication training programs. Currently, there is no fee to determine equivalency to the DOE curriculum framework. However, if this bill takes effect on July 1, 2010, it is estimated that 44 programs will apply prior to July 1, 2010, at no fee, and that the remaining 44 programs will apply after July 1, 2010, at the \$50 fee. The methodology used to determine the number of training programs that may apply to DOH is based on a projection that two-thirds of the current PSAP centers will apply to become a training program. Also, in addition to the two-thirds PSAP training programs, it is estimated that at least 1 community or technical college from each of the 7 Regional Domestic Security Task Force Regions will apply to be a 911 public safety telecommunication training program. Using this methodology, it is projected that there will be 176 public safety telecommunication training programs in the state by 2012.

Table 1

	1 <sup>st</sup> Year-2010	2 <sup>nd</sup> Year-2011	3 <sup>rd</sup> Year-2012	4 <sup>th</sup> Year-2013 (Annualized/Recurring)
Applicants Initial Certification Fee @ \$50	2,465 Applicants \$123,250	2,512 Applicants \$125,600	145 Applicants \$7,250	148 Applicants \$7,400
Applicants Certification Renewal Fee @ \$50	-0-	1,100 Renewals \$55,000	2,465 Renewals \$123,250	2,512 Renewals \$125,600
Programs Initial Training Evaluation Fee @ \$50	44 Programs \$2,200	88 Programs \$4,400	6 Programs \$300	10 Programs \$500
Examination Fee @ \$75	-0-	1,256 Exams \$94,200	145 Exams \$10,875	148 Exams \$11,100
<b>Total Revenue to EMS Trust Fund</b>	<b>\$125,450</b>	<b>\$279,200</b>	<b>\$141,675</b>	<b>\$144,600</b>

2. Expenditures:

<sup>41</sup> This information was based on the grandfather clause ending on October 1, 2011. The CS/CS/HB 355 extends this period to October 1, 2012, and may affect the flow of applicants over the three-year period and the figures listed on Table 1.

## Department of Health (DOH), Division of Emergency Medical Operations

This bill does not specify which division within DOH must implement the act, although the bill provides for funding through the Emergency Medical Services Trust Fund. According to DOH, the Division of Emergency Medical Operations (DEMO) does not have available resources or the subject matter expertise to create an examination of this magnitude. The development and maintenance of this examination would currently be managed via a service licensure agreement between two divisions within DOH: the Division of Medical Quality Assurance (MQA) and DEMO. The estimate below is based on the utilization of current MQA resources, such as a psychometrician, contract manager, etc. Hourly costs are based on the average salaries in the MQA testing services unit. Many third party vendors administer similar examinations through testing centers. Normally, these testing centers charge each candidate a direct testing/examination fee. DEMO projects that it will cost \$52,840 to create the first examination, and that there will be recurring annual costs of \$12,032 for maintenance purposes.

Based on information gathered from each county's State of Florida Emergency Telephone Number 911 Plan from DMS, it is estimated that there are at least 251 PSAPs that could be certified as public safety telecommunication training programs. These 251 PSAPs employ approximately 6,033 of the 911 telecommunication professionals located throughout the state. According to MQA, it can process initial applications, issue licenses, and generally maintain a licensee pool at a rate of 5,751 per FTE employee. According to DEMO, one FTE employee is required to process initial applications, renewal applications, training center applications, and training program applications.

**Table 2**

	1st Year	2nd Year	3rd Year	4th Year (Annualized/Recurring)
<b>Salaries</b>				
1.0 – Regulatory Specialist. II, Pay Grade 17	\$27,926	\$27,926	\$27,926	\$27,926
Fringe Benefits @ 35 percent	\$9,774	\$9,774	\$9,774	\$9,774
<b>Expenses</b>				
Recurring Expenses, Limited Travel – 1.0 FTE	\$15,953	\$12,076	\$12,076	\$12,076
Human Resources (SC 107040)	\$399	\$399	\$399	\$399
1.0 FTE Operating Capital Outlay (OCO) Package	\$1,000	-0-	-0-	-0-
Telecommunicator Examination Development Cost	\$52,840	-0-	-0-	-0-
Examination Maintenance Cost	-0-	\$12,032	\$12,032	\$12,032
Promulgate Rules, includes FAW notices, mailings and travel for 2 staff members for 2 meetings, and court reporting w/transcript cost. This cost will be covered by the EMS Trust Fund.	\$3,200	-0-	-0-	-0-
<b>Total Estimated Expenditures</b>	<b>\$111,092</b>	<b>\$62,207</b>	<b>\$62,207</b>	<b>\$62,207</b>

## Department of Education (DOE)

DOE has indicated that this bill would increase its workload for the review and approval of training programs to ensure that these meet educational standards, and to provide regulatory functions for 911 dispatchers. Depending on the clarification of some implementation responsibilities, the increased workload could require an additional staff position to perform these duties. Also, DOE has stated that limited travel would be needed to perform periodic site visits of training programs.

Also, DOE has stated that the bill's proposed training requirement for current and future 911 dispatchers may result in additional FTEs and, consequently, in a greater need for additional state

revenues to support facility, equipment, and operational expenditures in technical centers and colleges authorized to offer the emergency dispatch programs and related activities and services.

### **Department of Management Services (DMS)**

DMS has indicated that it will not experience a fiscal impact, whether positive or negative, as a result of this bill.

### **Other State Agencies**

The Florida Department of Law Enforcement (FDLE) estimates that eight full-time equivalent (FTE) employees with Capitol Police that perform dispatch functions will be affected by the provisions of the bill.<sup>42</sup> An agency fiscal impact statement was not available to include in this bill analysis.

The Florida Department of Highway Safety and Motor Vehicles (FDHSMV), estimates that 281 FTE employees that perform dispatch functions will be affected by the provisions of the bill.<sup>43</sup> The FDHSMV currently offers a Basic Duty Officer training course to employees, but this course does not meet the 232-hour requirement. An agency fiscal impact statement was not available to include in this bill analysis.

## **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

### **1. Revenues:**

This bill authorizes the use of funds from the Emergency Communications Number E911 System Fund to support the costs incurred by local governments for the certification and recertification fees.

### **2. Expenditures:**

The Revenue Estimating Conference (REC) has not met to address this bill in an Impact Conference. However, staff estimates that the provisions of this bill will have an indeterminate negative fiscal impact on local government revenues.

DMS has indicated that it has not determined the estimated fiscal impact on local governments, and that this impact would depend on a number of factors. Among these factors would be whether existing public safety training programs will be approved by DOH in some counties. Also, because the dispatching equipment has always been part of the costs for the emergency response agencies, including local municipality response agencies, the exact amount of equipment and maintenance costs is unknown. In addition, the fiscal impact on county governments for purposes of offsetting equipment and maintenance costs with E911 fee revenues is unknown. Overall, these costs will depend on the amount of dispatching equipment in 365.172(9)(b), F.S.,<sup>44</sup> that is determined to be fundable.

According to DMS, the E911 Board Prepaid Task Force Legislative Committee requested information from counties that have completed an estimate on the training cost associated with 911 public safety telecommunicators certification. Among the counties that provided information were the following:<sup>45</sup>

- Polk County - estimated \$600,315 in hourly wages and certification fees alone. Additionally, at the average turnover rate of 30 percent, \$271,000 would have to be budgeted per year for DOH alone. These figures do not include the actual cost of training and certification, which will be significant as Emergency Medical Dispatcher alone costs \$365 per student plus a \$2,000 instructor's fee;

<sup>42</sup> Per telephone conversation with FDLE staff on February 12, 2010.

<sup>43</sup> Per telephone conversation with FDHSMV staff on February 12, 2010.

<sup>44</sup> Section 365.172(9)(b), F.S., addresses the "authorized expenditures of E911 fee."

<sup>45</sup> Department of Management Services, 2010 Legislative Bill Analysis of House Bill 355 (February 9, 2010).

- Pinellas County - indicated that if the legislation were to be passed as-is, and if none of their Communications Center training programs were certified, Pinellas County training costs could be as much as \$2.7 million. This amount would roughly consist of \$794,000 to utilize the E911 fees and \$1,983,000 to General Revenue; and
- Pasco County - estimated that it will cost \$2,475 per hour to train the entire telecommunicator workforce. By multiplying this hourly cost with 232 for the course, Pasco County estimates that personnel costs will be \$574,200.

In addition, the West Palm Beach Police Department estimated that 21 employees will need to take the training in order to meet the certification requirements. Due to minimum staffing levels, the training must either be done on overtime, or overtime would be necessary to fill the position to allow for training. As a result, West Palm Beach County estimates that the provisions of this bill will cost them \$147,289 in overtime salaries and \$1,575 in certification costs.<sup>46</sup>

It is unclear what assumptions were used by these entities to estimate their fiscal impacts. In particular, it is unclear whether these amounts are offset by current county training expenditures or whether these amounts are all new expenditures. Similarly, it is unclear whether these counties' current training programs meet the 232 hours and the DOE curriculum framework required by the bill. Therefore, staff is not able to ascertain a possible net effect or offset for current training costs.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be an increase in enrollment at private education facilities that offer a 911 public safety telecommunicator training program.

DOH has indicated that the bill will impact private emergency medical services providers if they choose to pay the required costs for their 911 public safety telecommunicators to become certified and to become a training program. However, the estimated costs cannot be determined as this would be an internal business decision.

DMS has indicated that the provisions of this bill may affect some private sector telecommunicators, such as the one for the Reedy Creek Improvement District.

#### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The mandates provision in Article VII, s. 18 of the Florida Constitution appears to apply because this bill may require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. However, if the Legislature determines that the bill fulfills an important state interest, an exception to the mandates provision exists because the bill applies to all persons similarly situated, including the state. The bill includes a statement of public interest.

##### 2. Other:

This bill authorizes DOH to promulgate rules for the approval of public safety telecommunication training programs. Because the bill does not provide DOH minimal standards or guidelines on the approval process, the bill may implicate the non-delegation doctrine contained in Article II, s. 3 of the Florida Constitution.

<sup>46</sup> E-mail correspondence on file with the Health Care Regulation Policy staff dated February 11, 2010.



**B. RULE-MAKING AUTHORITY:**

The bill appears to provide sufficient rulemaking authority to DOH.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

DOH has provided the following comments:

The bill provides DOH rule authority to determine the definition of “direct supervision” as it relates to a training period. However, the bill has no provisions for instructor qualifications as it relates to a training period. This may be problematic for DOH as seen with other professions. Other public safety professions provide some type of regulatory control over the instructors of their respective curriculum.

DOE has provided the following comments:

- it is unclear who will be responsible for developing the 20-hour training for biennial renewal certification;
- the bill would require DOH to establish, by rule, a procedure to approve public safety telecommunications training programs; however, DOE already approves the curriculum framework for the program. It is unclear whether the procedure is expected to duplicate DOE’s approval process. If the process is expected to monitor colleges in the implementation of the approved public safety telecommunications curriculum framework, then the bill language should be revised; and
- the bill does not specify which educational delivery system or combination of educational delivery systems must be certified to offer the emergency dispatch training program. Because of the multiple combinations and varied financial impacts resulting from different combinations of public and private educational entities offering the required training, specific information concerning potential revenues and expenditures for these educational entities cannot be determined at this time.

DMS has provided the following comments:

Because the bill addresses certification costs for dispatching, DMS suggests amending s. 365.172(9)(a), F.S., which addresses the “authorized expenditures of E911 fee.” Statutory changes related to dispatcher certification can affect training costs and expenditures, as well as significant additional personnel costs not contemplated by the original intent of the E911 fee program.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On February 16, 2010, the Health Care Regulation Policy Committee adopted the following seven amendments and reported the bill favorably as a Committee Substitute. The amendments:

- Added costs for dispatching functions as an authorized expenditure of E911 funds;
- Provided a statement of public interest pursuant to Article VII, s. 18 of the Florida Constitution;
- Reduced the fee for placing and renewing a license that is on inactive status from \$75 to \$50;
- Reduced the initial application fee from \$75 to \$50;
- Reduced the certification biannual renewal and application for training program approval fees from \$75 to \$50;
- Deleted the phrase “most recent,” which is unnecessary language that references the DOE curriculum framework; and
- Changed terms from “is” to “works” to clarify that a trainee works under direct supervision.

This analysis is drafted to the Committee Substitute adopted by the Health Care Regulation Policy Committee.

On March 25, 2010, the Military & Local Affairs Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute. This amendment postpones the effective date of the mandatory certification provisions until October 1, 2012.

This analysis reflects the amendment adopted by the Military & Local Affairs Policy Committee.