

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: CS/CS/SB 1042

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Emergency 911 Service

DATE: February 27, 2012 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Toman | Yeatman | CA | Fav/CS |
| 2. | Wiehle | Carter | CU | Fav/CS |
| 3. | Howard | DeLoach | BGA | Favorable |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This CS amends certain provisions of the Emergency Communications Number E911 Act to:

- allow a 911 public safety telecommunicator to contact owners of automated external defibrillators to facilitate a coronary emergency call;
- modify membership numbers and composition of the E911 Board;
- clarify the application of the E911 fee to a customer using digital transmission link and service;
- clarify the indemnification and liability provisions related to provision of 911 or E911 service with respect to non-voice communications; and
- reflect the recent dissolution of the Florida Telecommunications Industry Association.

This CS substantially amends sections 365.171, 365.172, 401.2915, and 427.706 of the Florida Statutes.

II. Present Situation:

Automated External Defibrillators

It is the intent of the Legislature that an automated external defibrillator (AED) may be used by any person for the purpose of saving the life of another person in cardiac arrest.¹ In order to achieve that goal, the Legislature encourages training in lifesaving first aid and sets standards for and encourages the use of AEDs.²

Any person or entity in possession of an AED is encouraged to notify the local emergency medical services medical director of the location of the automated external defibrillator.³ Public schools, members of the Florida High School Athletic Association, state parks and multiservice senior centers are required to register their AED locations with a local emergency medical services director.⁴

The Cardiac Arrest Survival Act in s. 768.1325, F.S., addresses civil liability and AEDs.

Notwithstanding any other provision of law to the contrary, . . . any person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency, without objection of the victim of the perceived medical emergency, is immune from civil liability for any harm resulting from the use or attempted use of such device.⁵

According to the Department of Health's Guidelines for AEDs in State Owned or Leased Facilities, the optimal response time for use of an AED is three minutes or less. This interval begins from the moment a person is identified as needing emergency care to when the AED is at the side of the victim. Survival rates decrease by 7 to 10 percent for every minute that defibrillation is delayed.⁶

E911 Confidentiality of Records

Section 365.171(12), F.S. on E911 confidentiality of records states that:

Any record, recording, or information, or portions thereof, obtained by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency service or reporting an emergency by accessing an emergency communications E911 system is confidential and exempt from the provisions of s. 119.07(1), F.S., and s. 24(a), Art. I of the State

¹ Section 401.2915, F.S.

² *Id.*

³ Section 401.2915(b), F.S.

⁴ Sections 1006.165, 258.0165, and 430.902, F.S.

⁵ Section 768.1325(3), F.S.

⁶ *See* Rule 64J-1.023, F.A.C.

Constitution, except that such record or information may be disclosed to a public safety agency.⁷

Emergency Communications Number E911 Act

The Emergency Communications Number E911 Act (Act)⁸ establishes a statewide E911 system to provide users of voice communications rapid, direct access to public safety agencies by accessing the telephone number “911.” In addition, the Act is intended to:

- provide funds to counties to pay certain costs associated with their E911 or 911 systems and to reimburse wireless telephone service providers for costs incurred to provide 911 or E911 services;
- levy a reasonable fee on voice communications services to accomplish these purposes;
- provide for an E911 board to administer the fee; and
- ensure that the fee is used exclusively for recovery by wireless providers and by counties for costs associated with developing and maintaining E911 systems.⁹

Funding the E911 System

To fund the E911 system, the Act imposes a fee, capped at \$.50, on voice communications services. This fee funds costs incurred by local governments to install and operate 911 systems and reimburses providers for costs incurred to provide 911 or E911 services. As of March 31, 2008, all 67 counties reported capability to receive a call back number and location information provided for the cellular caller from the service provider.¹⁰

Florida law requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis, up to a maximum of 25 access lines per account bill.¹¹ “Service identifier” is defined as the service number, access line, or other unique identifier assigned to a customer for purposes of routing calls to the E911 system.¹² Consistent with the statutory definition for “voice communications services provider,”¹³ the fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice-over-Internet Protocol¹⁴ (“VoIP”).

For customers who receive service through a digital transmission link that can be channelized and split into 23 or 24 voice or data grade channels for communications (such as primary rate

⁷ Section 119.07, F.S., and s. 24(a), Art. I of the State Constitution, address inspection and copying of public records and access to public records and meetings respectively.

⁸ Section 365.172, F.S. Originally cited as the “Wireless Emergency Communications Act,” Chapter 99-367, L.O.F., codified in s. 365.172, F.S.

⁹ Section 365.172(1)(a)-(e), F.S.

¹⁰ Florida Department of Management Services, *Florida E911*, http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited Jan. 17, 2012).

¹¹ Section 365.172(8), F.S.

¹² Section 365.172(3)(z), F.S.

¹³ Section 365.172(3)(bb) and (cc), F.S.

¹⁴ Voice-over-Internet Protocol, or VoIP, is the method commonly used by traditional cable television service providers to provide voice communications service. In addition, companies referred to as “over-the-top” providers, like Vonage, use VoIP.

interface service or Digital Signal 1 level service), local exchange carriers are required by rule¹⁵ to bill the E911 fee on the basis of five access lines for each digital transmission link up to a maximum of 25 access lines per account bill. A customer using one digital transmission link for service is able to use that link for 23 or 24 voice or data channels. The rule assumes that five of those channels, on average, are used as voice lines with access to the E911 system, and the customer is billed the E911 fee for five lines.

The E911 subscriber fee is not assessed on any pay telephone in the state. Except in the case of prepaid wireless service, each wireless provider bills the E911 fee to a subscriber on a per-service-identifier basis for service identifiers whose primary place of use is within Florida. E911 subscriber fees may not be assessed on or collected from the sale of prepaid wireless service prior to July 1, 2013.¹⁶

E911 Board

The E911 Board, formerly the Wireless 911 Board, helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The primary function of the E911 Board (Board) is to make disbursements from the E911 Trust Fund to county governments and wireless providers in accordance with s. 365.173, F.S. The Board consists of nine members including the E911 system director (the secretary of the Department of Management Services or his or her designee) who serves as chair of the board. The remaining eight members are appointed by the Governor and must be composed of:

- four county 911 coordinators;
- two local exchange carrier representatives; and
- two wireless telecommunications industry representatives recommended by the Florida Telecommunications Industry Association (FTIA) in consultation with the wireless industry.¹⁷

According to the Florida Department of Management Services (DMS), the E911 Board industry representation currently includes AT&T (the local exchange carrier with the greatest number of access lines), CenturyLink (a local exchange carrier), Verizon (a wireless carrier) and TracFone Wireless (a wireless provider). FTIA's termination was filed June 2011, and is no longer available to make recommendations for replacement candidates.¹⁸

E911 Indemnification and Limitation of Liability

Section 365.172(11), F.S., protects voice communications services providers from liability for damages resulting from or in connection with 911 or E911 service. Providers also receive

¹⁵ Rule 60FF1-5.007, Florida Administrative Code.

¹⁶ See s. 365.172(8), F.S. "Prepaid wireless service" means the right to access telecommunications services that must be paid for in advance and is sold in predetermined units or dollars enabling the originator to make calls such that the number of units or dollars declines with use in a known amount.

¹⁷ Section 365.172(5)(b), F.S.

¹⁸ Florida Department of Management Services, *HB 801/SB 1042 Bill Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

liability protection for identification of the telephone number, address, or name associated with any person accessing 911 or E911 service.¹⁹

Further, the law authorizes local governments to indemnify local exchange carriers against liability in accordance with the carrier's lawfully filed tariffs. Since 2009, however, local exchange carriers have not been required to file tariffs (i.e., rate schedules) with the Public Service Commission ("PSC"). Instead, these carriers are required to publish their rate schedules through electronic or physical media and to inform customers where the schedules can be viewed.

Next Generation 911

The nation's current 911 system is designed around telephone technology and cannot handle the text, data, images, and video that are both increasingly common in personal communications and critical to future transportation safety and mobility advances. Development of next generation 911 technology is designed to create a system that is capable of voice, data, and video transmission from different types of communication devices into public safety answering points and on to emergency responder networks.²⁰

Telecommunications Access System

Chapter 427, F.S., establishes the Telecommunications Access System Act of 1991 (TASA). Pursuant to TASA, the PSC is responsible for establishing, implementing, promoting, and overseeing the administration of a statewide system to provide access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them.²¹ TASA establishes an advisory committee to assist the PSC. The advisory committee provides the expertise, experience, and perspective of people who are hearing impaired or speech impaired to the PSC regarding the operation of the telecommunications access system. The advisory committee consists of 10 members:

- two deaf persons;
- one hearing-impaired person;
- one deaf and blind person;
- one speech-impaired person;
- two representatives of telecommunications companies recommended by the Florida Telephone Association;
- one person with experience in providing relay services;
- one person recommended by the Advocacy Center for Persons with Disabilities; and
- one person recommended by the Florida League of Seniors.²²

¹⁹ Absent any malicious purpose or wanton and willful disregard of the rights, safety, or property of the person when providing services.

²⁰ United States Department of Transportation, Research and Innovative Technology Administration, *Intelligent Transportation Systems Joint Program Office Website*, available at <http://www.its.dot.gov/ng911/> (last visited Jan. 17, 2012). "Answering point" is defined in s. 365.172(3)(a), F.S., as the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.

²¹ Section 427.704, F.S.

²² Section 427.706, F.S.

According to the Florida Department of State, Division of Corporation's website, the Florida Telephone Association was renamed FTIA in May 1996. As mentioned previously, FTIA's termination was filed June 2011.

III. Effect of Proposed Changes:

Section 1 amends s. 365.171 (12), F.S., to allow a 911 public safety telecommunicator to contact a private owner of an automated external defibrillator who has notified the local emergency medical services director or a public safety answering point, if a confirmed coronary emergency call is taking place a reasonable distance from the defibrillator. The telecommunicator may then provide the location of the emergency to the defibrillator owner.

Section 2 amends s. 365.172(5), F.S., to change the composition of the E911 board membership. The CS increases the total number of board members from nine to eleven. The number of county 911 coordinator representatives is increased from four to five. The number of board members representing local exchange carriers increases from two to three. One of these representatives must be a representative of a certified competitive local exchange telecommunications company (e.g., a traditional landline competitive company or a cable voice service provider.). The CS removes a provision requiring the now-dissolved FTIA to recommend a wireless industry member.

This section also amends s. 365.172(8)(a), F.S., to clarify and modernize application of the E911 fee. The CS amends subparagraph 1. to provide that all voice communications services providers other than wireless providers must bill the E911 fee to each subscriber based on the number of access lines with access to the E911 system, on a service-identifier basis. Based on the applicable definition of "voice communications services provider," this provision should encompass every voice communications technology that is required by the Federal Communications Commission (FCC) to provide E911 service, other than wireless service.

The CS creates a new subparagraph 2. to establish how voice communications services providers other than wireless providers will bill the E911 fee to customers that use a digital transmission link that can be channelized and split into 23 or 24 voice or data grade channels for communications. Consistent with the existing rule of the E911 Board and FCC practice, these customers will be billed the fee for five service-identified access lines for each digital transmission link, up to a maximum of 25 access lines per account bill. The CS provides that a "digital transmission link" includes primary rate interface service or equivalent Digital Signal 1 level service. This is a codification of Rule 60FF1-5.007, F.A.C., which was adopted December 3, 2010.

The CS retains the existing provisions in s. 365.172(8)(a), F.S., that specify how wireless providers must bill the E911 fee to their customers.

Section 2 also amends s. 365.172(11), F.S., related to indemnification and limitation of liability to clarify application of the existing liability provisions to include services that are capable of providing access to the E911 system for nonvoice communications (e.g., text, data, images and video). These "Next Generation 911" systems are currently being developed.

Further, this section of the CS reflects that local exchange carriers are no longer required to file tariffs with the PSC. To do this, the CS provides that local governments may indemnify a local exchange carrier against liability in accordance with the carrier's lawfully published rate schedules, rather than its filed tariffs.

Section 3 amends s. 401.2915(2)(b), F.S., to encourage automated external defibrillator owners to notify a public safety answering point of the location of their devices.

Section 4 amends s. 427.706, F.S., to remove specifications related to the telecommunication company representation on the advisory committee charged with providing access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them. An obsolete reference to the role of the Florida Telephone Association in the advisory committee selection process is removed as well. The CS also provides that the uncompensated advisory committee members are entitled to reimbursement for per diem and travel expenses.

Section 5 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the DMS, no immediate effects are anticipated as a result of the CS's modifications of the E911 Board industry representation. Due to the flexibility and inclusiveness of the categories used, no major changes are expected in the composition of the E911 Board industry representatives.²³

²³ Florida Department of Management Services, *HB 801/SB 1042 Bill Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

C. **Government Sector Impact:**

The dissolution of the Florida Telecommunications Industry Association will affect how the Governor appoints E911 board members and how the PSC appoints Telecommunications Access System advisory committee members.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Communications, Energy, and Public Utilities on January 30, 2012:
Makes a technical change.

CS by Community Affairs on January 23, 2012:

- Allows a 911 public safety telecommunicator to contact private owners of automated external defibrillators to facilitate a coronary emergency call.
- Changes the membership number and composition requirements of the E911 Board.
- Removes specifications related to the telecommunication company representation on the advisory committee charged with providing access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them.
- Makes technical and clarifying changes.

B. **Amendments:**

None.