

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 Community Affairs Committee

BILL: SB 1042

INTRODUCER: Senator Bennett

SUBJECT: Emergency 911 Service

DATE: January 17, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Pre-meeting
2.			CU	
3.			BC	
4.				
5.				
6.				

I. Summary:

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

- modify industry membership on 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 bill substantially amends sections 365.172 and 427.706 of the Florida Statutes.

II. Present Situation:

Emergency Communications Number E911 Act

The Emergency Communications Number E911 Act (Act)¹ 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;

¹ 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.

- 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.²

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.³

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.⁴ “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.⁵ Consistent with the statutory definition for “voice communications services provider,”⁶ the fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice-over-Internet Protocol⁷ (“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 interface service or Digital Signal 1 level service), local exchange carriers are required by rule⁸ 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, 2013.⁹

² Section 365.172(1)(a)-(e), F.S.

³ Florida Department of Management Services, *Florida E911*, http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited Jan. 17, 2012).

⁴ Section 365.172(8), F.S.

⁵ Section 365.172(3)(z), F.S.

⁶ Section 365.172(3)(bb) and (cc), F.S.

⁷ 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.

⁸ Rule 60FF1-5.007, Florida Administrative Code.

⁹ 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.

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.¹⁰

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.¹¹

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 liability protection for identification of the telephone number, address, or name associated with any person accessing 911 or E911 service.¹²

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

¹⁰ Section 365.172(5)(b), F.S.

¹¹ Florida Department of Management Services, *HB 801/SB 1042 Bill Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

¹² Absent any malicious purpose or wanton and willful disregard of the rights, safety, or property of the person when providing services.

transmission from different types of communication devices into public safety answering points and on to emergency responder networks.¹³

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.¹⁴ 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.¹⁵

According to the Florida Department of State, Division of Corporations 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. 365.172(5), F.S., to change the composition of the E911 board membership. The bill increases the number of board members representing local exchange carriers 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 bill reduces the number of wireless industry representatives from two to one and removes a provision requiring that 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 bill 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

¹³United 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).

¹⁴ Section 427.704, F.S.

¹⁵ Section 427.706, F.S.

voice communications technology that is required by the Federal Communications Commission (FCC) to provide E911 service, including VoIP, other than wireless service.

The bill creates a new provision as 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 bill 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 enacted December 3, 2010.

The bill 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 1 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 bill reflects that local exchange carriers are no longer required to file tariffs with the PSC. To do this, the bill 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 2 amends s. 427.706, F.S., to remove an obsolete reference to the role of the Florida Telephone Association in recommending members to 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. The bill also provides that these uncompensated advisory committee members are entitled to reimbursement for per diem and travel expenses.

Section 3 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 bill's modifications of the E911 Board industry representation. Future representation may be affected with the limitation of one wireless industry representative, especially since the subscriber counts are decreasing on access lines and increasing on wireless subscribers.

With the bill's ability to represent various industries, no major changes are expected in the composition of the E911 Board industry representatives.

- Three of the existing industry members can qualify as representatives of a certified competitive local exchange carrier.
- One of the existing wireless industry representatives can qualify as a representative of an incumbent local exchange carrier and a certified competitive local exchange carrier.
- The remaining wireless industry representative can remain as the wireless industry representative.¹⁶

C. Government Sector Impact:

The dissolution of the FTIA 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.)

None.

¹⁶ Florida Department of Management Services, *HB 801/SB 1042 Bill Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
