

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 801 Emergency 911 Service
SPONSOR(S): Community & Military Affairs Subcommittee and Steube
TIED BILLS: **IDEN./SIM. BILLS:** SB 1042

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	13 Y, 0 N	Keating	Collins
2) Community & Military Affairs Subcommittee	13 Y, 0 N, As CS	Read	Hoagland
3) Finance & Tax Committee	23 Y, 0 N, As CS	Flieger	Langston
4) State Affairs Committee	14 Y, 0 N	Keating	Hamby

SUMMARY ANALYSIS

Section 365.172, F.S., established a statewide enhanced 911 ("E911") system for wireless telephone users. To fund the E911 system, the act imposes a fee, capped at 50 cents, on voice communications services.

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. The fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice-over-Internet Protocol ("VoIP").

The E911 Board helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The Board consists of nine members: the E911 system director (the secretary of the Department of Management Services or his or her designee) who serves as chair of the board; four county 911 coordinators; two local exchange carrier representatives; and two wireless telecommunications industry representatives recommended by the Florida Telecommunications Industry Association ("FTIA").

CS/CS/HB 801 amends provisions of the Emergency Communications Number E911 Act to do the following:

- Modify the membership of the E911 Board by: expanding the total number of members from 9 to 11; expanding the number of local exchange carrier representatives from 2 to 3; adding a requirement that one of these 3 Board members represent a competitive local exchange telecommunications company; expanding the number of county 911 coordinators from 4 to 5 and the number of at-large county 911 coordinators from 1 to 2; and reducing the number of wireless telecommunications industry representatives on the Board from 2 to 1.
- Clarify how the E911 fee will be billed by certain voice communications services providers, including billing to customers served through certain high-capacity lines.
- Clarify that the indemnification and liability provisions related to the provision of 911 or E911 service will apply to non-voice communications (e.g., text, data, images, video) that may be utilized in Next Generation 911 applications currently being developed.
- Reflect the recent dissolution of the FTIA.

The bill also amends the Telecommunications Access System Act of 1991 to reflect the dissolution of the FTIA, which was known until 1996 as the Florida Telephone Association.

The bill allows 911 public safety telecommunicators to disclose the location of persons having a confirmed coronary emergency to private persons or entities that have automated external defibrillators nearby.

This bill has not been evaluated by the Revenue Estimating Conference, but it does not appear to have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Emergency Communications Number E911 Act¹ establishes a statewide E911 system for wireless telephone users. To fund the E911 system, the act imposes a fee, capped at \$.50 per access line or service number, 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.²

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.³ "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.⁴ Consistent with the statutory definition for "voice communications services provider"⁵, the fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice-over-Internet Protocol⁶ ("VoIP").

For customers who take 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 rule⁷ 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 rule does not currently apply to voice communications services providers other than local exchange carriers.

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: the E911 system director (the secretary of the Department of Management Services or his or her designee) who serves as chair of the board; four county 911 coordinators (one from a rural county, one from a medium county, one from a large county, and one at-large member recommended by the Florida Association of Counties); 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.⁸ According to the Florida Department of State, Division of Corporations website, the Florida Telecommunications Industry Association was voluntarily dissolved in June 2011.

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.

² Florida Department of Management Services, *Florida E911*, http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited Jan. 13, 2012).

³ Section 365.172(8), F.S.

⁴ Section 365.172(3)(z), F.S.

⁵ Section 365.172(3)(bb) and (cc), F.S.

⁶ 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.

⁷ Rule 60FF1-5.007, Florida Administrative Code.

⁸ Section 365.172(5)(b), F.S.

Florida law protects voice communications services providers from liability for damages resulting from or in connection with 911 or E911 service or for identification of the telephone number, address, or name associated with any person accessing 911 or E911 service, absent malicious purpose or wanton and willful disregard of the rights, safety, or property of the person.⁹ 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.

Chapter 427, Florida Statutes, 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.¹⁰ 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.¹¹ According to the Florida Department of State, Division of Corporations website, the Florida Telephone Association was renamed the Florida Telecommunications Industry Association in May 1996.

Effect of Proposed Changes

CS/CS/HB 801 amends certain provisions of the Emergency Communications Number E911 Act to do the following:

- Modify membership of the E911 Board.
- Clarify the application of the E911 fee to a customer using digital transmission link and service (i.e. T-1 and Primary Rate Interface (PRI)).¹²
- Clarify the indemnification and liability provisions related to provision of 911 or E911 service with respect to non-voice communications.
- Reflect the recent dissolution of the FTIA.

The bill also amends the Telecommunications Access System Act of 1991 to reflect the dissolution of the FTIA.

E911 Board Membership

The bill amends s. 365.172(5)(b), F.S., to modify the membership of the E911 Board. The bill expands the total number of E911 Board members from 9 to 11. The bill expands the number of local exchange carrier representatives on the E911 Board from two to three. The bill retains the requirement that one of these Board members represent the local exchange company with the greatest number of access lines in the state. The bill adds a requirement that one of these three Board members represent a competitive local exchange telecommunications company (e.g., a traditional landline competitive company or a cable voice service provider.) The bill expands the number of county 911 coordinators on the Board from 4 to 5, and expands the number of at-large county 911 coordinators on the Board from one to two. Finally, the bill reduces the number of wireless telecommunications industry

⁹ Section 365.172(11), F.S.

¹⁰ Section 427.704, F.S.

¹¹ Section 427.706, F.S.

¹² T-1 and PRI are defined in Rule 60-FF1-5.007(3)(a) and (b), F.A.C., respectively, as "[a] digital transmission link and service that can be channelized and split into 23 or 24 voice or data grade channels for communications."

representatives on the E911 Board from two to one. The bill retains the requirement that consideration be given to wireless providers that are not affiliated with local exchange carriers. To reflect the dissolution of the FTIA in June 2011, the bill removes the requirement that the wireless industry representative be recommended by the FTIA.

E911 Fee

The bill 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 voice communications technology that is required by the Federal Communications Commission ("FCC") to provide E911 service, including VoIP, other than wireless service. The bill retains the existing provisions related to collection of the E911 fee by wireless service providers. The bill also retains the existing provision that limits application of the E911 fee to a maximum of 25 access lines per account bill.

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 provision codifies 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.

The bill also retains provisions in s. 365.172(8)(a), F.S., that specify how voice communications services providers other than those previously described must bill the E911 fee. It is not clear that this provision is still necessary, as the provisions discussed above appear to address all voice communications services providers.

Indemnification and Liability

Section 365.172(11), F.S., provides protection to voice communications services providers from liability for damages resulting from or in connection with 911 or E911 service. The bill provides a definition for the term "911 or E911 service" for purposes of that subsection. Specifically, the bill defines the term as

"a telecommunications service, voice or nonvoice communications service, or other wireline or wireless service, including, but not limited to, a service using Internet protocol, which provides, in whole or in part, any of the following functions: providing members of the public with the ability to reach an answering point by using the digits 9-1-1; directing 911 calls to answering points by selective routing; providing for automatic number identification and automatic location-identification features; or providing wireless E911 services as defined [by specified orders of the FCC]."

The bill appears 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, 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.

Automated External Defibrillators (AEDs)

The bill amends s. 365.171(12), F.S., to give 911 public safety telecommunicators¹³ (emergency dispatchers) the discretion to disclose the location of a confirmed coronary emergency to any private person or entity that owns an automated external defibrillator (AED) nearby. This disclosure is limited to providing the location of the confirmed coronary emergency.

The bill also amends s. 401.2915(2)(b), F.S., which presently encourages persons or entities in possession of an AED to notify the local emergency medical services director about the location of the AED. The bill adds that these persons or entities should also notify the local public safety answering point¹⁴ about the location of the AED. The bill may result in faster response times for persons having confirmed coronary emergencies.

Miscellaneous Provisions

The Telecommunications Access System Act of 1991¹⁵ establishes an advisory committee to assist the PSC in 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. The bill amends s. 427.706(1), F.S., to remove an obsolete reference to the role of the Florida Telephone Association (“FTA”) in recommending members to be appointed to the advisory committee. The FTA was renamed the FTIA in 1996, and the FTIA has since been dissolved. The bill does not otherwise change the existing membership of the advisory committee.

The bill makes conforming changes to cross-references and makes other technical changes.

B. SECTION DIRECTORY:

Section 1. Amends s. 365.171(12), F.S., relating to confidentiality of records, allowing 911 public safety telecommunicators to disclose the location of a confirmed coronary emergency to private persons or entities that have an automated external defibrillator nearby.

Section 2. Amends s. 365.172, F.S., relating to the Emergency Communications Number E911 Act.

Section 3. Amends s. 401.2915, F.S., relating to automated external defibrillators, encouraging the owner of an automated external defibrillator to notify local emergency medical services directors or local public safety answering points of the location of the device.

Section 4. Amends s. 427.706, F.S., relating to the advisory committee created to assist the Public Service Commission in implementing the Telecommunications Access System Act of 1991.

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

¹³ Section 401.465(1)(a), F.S., defines “911 public safety telecommunicator” as “a public safety dispatcher or 911 operator whose duties and responsibilities include the answering, receiving, transferring, and dispatching functions related to 911 calls . . .”

¹⁴ Section 365.172(3)(a), F.S. defines “answering point” as “the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.”

¹⁵ Sections 427.701-.708, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has not been evaluated by the Revenue Estimating Conference, but it does not appear to have a fiscal impact.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill retains provisions in s. 365.172(8)(a), F.S., that specify how voice communications services providers other than those already identified in the law must bill the E911 fee. It is not clear that this provision is still necessary, as the provisions of the bill appear to apply to all voice communications services providers.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 18, 2011, the Community & Military Affairs Subcommittee adopted five amendments. Four of the amendments were technical; the other amendment gives 911 public safety telecommunicators the discretion to contact persons or entities that own automated external defibrillators and inform them of the location of a confirmed coronary emergency if they are within a reasonable distance.

On February 7, 2012, the Finance & Tax Committee adopted an amendment that further modified the bill's changes to the E911 Board. These changes expand the number of county 911 coordinators on the Board from 4 to 5, expand the number of at-large county 911 coordinators on the Board from 1 to 2, and expand the total membership of the Board from 9 to 11.

The analysis above reflects these changes.