

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 Committee on Communications, Energy, and Public Utilities

BILL: CS/SB1070

INTRODUCER: Committee on Communications, Energy, and Public Utilities and Senator Hays

SUBJECT: Emergency Communication Systems

DATE: April 1, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	CU	Fav/CS
2.	_____	_____	AFT	_____
3.	_____	_____	AP	_____
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:

CS/SB1070 extends to July 1, 2015, from July 1, 2013, the prohibition on collecting or assessing the E911 fee on prepaid calling arrangements and prepaid wireless service.

This bill substantially amends sections 365.172 of the Florida Statutes.

II. Present Situation:

The Wireless Emergency Communications Act¹ established a statewide E911 system for wireless telephone users which designates a emergency communications number (911) for use by any person in the state to reach emergency response services. The system must accommodate various technologies for wireline and wireless or cellular systems. As technology has advanced, the system has been upgraded to take advantage of the advancements. For instance, providers of wireline telecommunications services were able to provide information as to the location of their customers. Wireless providers were later able to provide location information of a mobile phone by triangulating its location among cell towers.

¹ Chapter 99-367, L.O.F., codified in s. 365.172, F.S. Today the statute is cited as the “Emergency Communications Number E911 Act.” Section 365.172(1), F.S.

To fund the E911 system, the act imposed a fee, capped at \$0.50, 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.

Section 365.172(8), F.S., requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis. 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, but is not currently imposed on prepaid calling arrangement and prepaid wireless services, until after July 1, 2013.² State and local governments are not subject to the fee.³

The E911 Board (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 Board is to make disbursements from the Emergency Communications Number E911 System Fund (E911 Fund) to county governments and wireless providers according to s. 365.173, F.S. The Board has the authority to adjust the level of the fee, within the \$0.50 cap, once annually.

As of March 31, 2008, all 67 counties in Florida reported capability to receive a call back number and location provided for a cellular caller from the service provider.⁴ The next progression in E911 systems is referred to as Next Generation 911 (NG 911). According to the E911 Board's 2012 Annual Report, NG-911 is the migration of E911 systems to Internet Protocol-capable equipment and networks, which will resolve deficiencies in the current systems while providing data, text, and video capabilities to support emergency communications. The Board and Florida's public safety agencies are currently planning, designing, and implementing emergency services IP (Internet protocol) networks and system replacements, though the development of an NG-911 system will likely involve a multi-year transition.⁵

E911 Fees for Prepaid Wireless Service

In 2006, the Board was required⁶ to evaluate the 911 system revenues and services costs to determine the date that the wireless E911 fee could be reduced to a level that still funds all counties' E911 costs, service provider costs, and Board administration costs. In its report, the Board concluded that there were insufficient fee revenues collected to cover all county and service provider E911 costs.⁷

² Prepaid wireless service is defined as "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." See s. 365.172(8)(a)2.b.(I), F.S.

³ Section 365.172(8)(c), F.S.

⁴ Florida Department of Management Services, *Florida Enhanced 911*, http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited March 5, 2013).

⁵ 2012 Annual Report of the E911 Board.

⁶ See proviso language accompanying specific appropriation 2946 of the Fiscal Year 2006-07 General Appropriations Act (HB 5001).

⁷ Florida Department of Management Services, E911 Board, *2006 Wireline and Wireless 911 Fee Evaluation Legislative Report* (Sept. 29, 2006).

In its report, the Board also recommended that the Legislature consider changing the provisions relating to prepaid calling services so that fees are imposed on users in a fair and consistent manner. At that time, E911 fees for prepaid wireless service were remitted based upon each prepaid wireless telephone associated with this state, for each wireless service customer that had a sufficient positive balance as of the last day of each month. Recognizing that direct billing may not be possible, the law provided that the surcharge amount, or an equivalent number of minutes, may be reduced from the prepaid wireless subscriber's account.

In 2007, the Legislature suspended collection of E911 fees on prepaid wireless service until July 1, 2009, and required the board to conduct a study on the collection of E911 fees on the sale of prepaid wireless service.⁸ The resulting report⁹ concluded that it is feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis.

In 2010, the Legislature extended the suspension of E911 fee collections for prepaid wireless service through July 1, 2013, at which point the Board is required to collect the fee from the sale of prepaid wireless service if it determines that a fee should be collected from such sales.¹⁰

Distribution of E911 Funds

Funds generated from the E911 fees levied on subscribers are accounted for in the Emergency Communications Number E911 System Fund and segregated into two separate categories: wireless and nonwireless.¹¹ One percent of the moneys in each category is retained by the Board to cover the costs of managing, administering, and overseeing the E911 Fund. Two percent of the moneys in each category are used to make monthly distributions to rural counties for facilities, network and service enhancements, and assistance for their E911 systems and to make grants to rural counties to upgrade and replace such systems.

In the wireless category, 67 percent of the moneys are distributed monthly to counties, based on the total number of service identifiers in each county. The county may use these funds to pay for expenditures related to establishing or providing E911 services and contracting for E911 services, as well as to pay for complying with the requirements for E911 service contained in specified Federal Communications Commission orders.¹² The remaining 30 percent of the moneys in the wireless category are available for distribution to wireless providers as reimbursement for actual costs incurred to provide E911 service.

In the nonwireless category, 97 percent of the moneys are distributed monthly to counties based on the total number of service identifiers in each county. The county may use these funds

⁸ Chapter 2007-78, Laws of Florida.

⁹ Florida Department of Management Services, E911 Board, *E911 Prepaid Wireless Fee Collection and E911 Fee Exemptions: A Feasibility Analysis*, 106 (Dec. 31, 2008), available at http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911/e911_board_prepaid_study (last visited March 5, 2013).

¹⁰ Chapter 2010-50, Laws of Florida.

¹¹ Subsection 365.173(1), F.S.

¹² Section 365.173(2)(a), F.S. See also s. 365.172(9), F.S.

exclusively to pay for expenditures related to establishing or providing E911 services and contracting for E911 services.¹³

Section 365.172(10), F.S., specifies the types of expenses for which funds derived from the E911 fee may be expended. In general, all costs directly attributable to the establishment or provision of E911 service and contracting for E911 services are eligible. For this purpose, the law defines E911 service to include the functions of database management, call taking, dispatching, location verification, and call transfer.

A county may carry forward up to 30 percent of the total funds it receives from the Board during a calendar year for expenditures for capital outlay, capital improvements, or equipment replacement provided that the expenditures are otherwise authorized uses of the funds derived from E911 fees.

Indemnification and Limitation of Liability

In general, a service provider that provides 911 or E911 service on a retail or wholesale basis is not liable for damages resulting from or in connection with 911 or E911 service, or for identification of the telephone number, or address, or name associated with any person accessing 911 or E911 service.¹⁴ Further, a provider is not liable for damages to any person resulting from or in connection with the provider's provision of any lawful assistance to any investigative or law enforcement officer of the United States, this state, or a political subdivision thereof, or of any other state or political subdivision thereof, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer.¹⁵

A provider is not obligated to take legal action to enforce collection of the E911 fee that it bills a consumer.¹⁶

III. Effect of Proposed Changes:

Prepaid Wireless and Prepaid Calling Arrangement E911 Fee

The bill amends subsection (8) of section 365.172, F.S., to extend to July 1, 2015, from July 1, 2013, the prohibition on collecting or assessing the E911 fee on prepaid calling arrangements and prepaid wireless service. The bill also makes technical changes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable; this bill does not appear to negatively affect counties or municipalities.

¹³ Section 365.173(2)(b), F.S.

¹⁴ Section 365.172(11), F.S. An exception exists when the provider acts with malicious purpose or in a manner exhibiting wanton and willful disregard of the rights, safety, or property of a person when providing such services.

¹⁵ *Id.*

¹⁶ Section 365.172(8)(b), F.S.

B. Public Records/Open Meetings Issues:

Not applicable; this bill does not appear to have any effect on public records or open meetings.

C. Trust Funds Restrictions:

Not applicable; this bill does not appear to restrict trust funds.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

Revenues from collection of the E911 fee are distributed by the Board to counties to cover authorized E911 system costs. Although the Board has not collected this fee from the sale of prepaid wireless service since 2007, users of prepaid wireless service are provided access to the E911 system. According to the 2012 Annual Report of the E911 Board, the suspension of collections from prepaid wireless service has resulted in a continual loss of E911 fee revenues each year since 2007, including a decrease of \$13.6 million in 2012 (representing a 15.4% decrease in E911 fee revenues from wireless service and a 3.7% decrease in E911 fee revenues from nonwireless service).

B. Private Sector Impact:

Thirty percent of the moneys in the wireless category are available for distribution to wireless providers as reimbursement for actual costs incurred to provide E911 service. Purchasers of prepaid communications services will not have to pay the E911 fee. Wireless providers will not receive reimbursement for that portion of uncollected fees.

C. Government Sector Impact:

According to the 2012 Annual Report of the E911 Board, the suspension of collections from prepaid wireless service has resulted in a continual loss of E911 fee revenues each year since 2007, including a decrease of \$13.6 million in 2012 (representing a 15.4% decrease in E911 fee revenues from wireless service and a 3.7% decrease in E911 fee revenues from nonwireless service). The continued suspension of collecting the E911 fee from prepaid calling arrangements and prepaid wireless service affects the counties as 67 percent of the moneys are distributed monthly to counties, based on the total number of service identifiers in each county. The county may use these funds to pay for expenditures related to establishing or providing E911 services and contracting for E911 services, as well as to pay for complying with the requirements for E911 service contained in specified Federal Communications Commission orders. In the nonwireless category, 97 percent of the moneys are distributed monthly to counties based on the total number of service identifiers in each county. The county may use these funds exclusively to pay for expenditures related to establishing or providing E911 services and contracting for E911 services.

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 by Committee on Communications, Energy, and Public Utilities on April 1, 2013:

The amendment extends to July 1, 2015, the prohibition on collecting or assessing the E911 fee on prepaid calling arrangements and prepaid wireless services and removes all proposed changes to ss. 365.172 and 365.173, F.S.

- B. **Amendments:**

None.