

By Senator Hays

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1 A bill to be entitled
2 An act relating to emergency communication systems;
3 amending s. 365.172, F.S., relating to the Emergency
4 Communications Number E911 System; revising
5 definitions; revising provisions relating to oversight
6 of certain fees by the Technology Program within the
7 Department of Management Services; revising E911 board
8 appointment provisions; revising duties of the board;
9 revising provisions for administration, distribution,
10 and use of the E911 fee; revising fee collection
11 procedures; providing for the amount of the fee;
12 authorizing the board to adjust the rate of the fee;
13 prohibiting a local government from imposing a fee on
14 sellers of prepaid wireless services; providing for a
15 prepaid wireless E911 fee; requiring the Department of
16 Revenue to provide notice to sellers and establish
17 registration, payment, and documentation procedures;
18 providing for distribution and use of fees collected;
19 providing that fees collected may not be included in
20 the base for measuring any tax, fee, surcharge, or
21 other charge; providing for application of specified
22 audit and appeals procedures; limiting liability of
23 provider or seller of prepaid wireless service;
24 providing that the state and local governments are not
25 subscribers for certain purposes; providing
26 definitions for specified purposes; revising
27 provisions for authorized expenditures of the E911
28 fee; providing that certain costs of the Department of
29 Health are functions of 911 services; amending s.

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30 365.173, F.S.; revising provisions for accounting,
31 distribution, use, and auditing of the Emergency
32 Communications Number E911 System Fund; providing for
33 a prepaid wireless category in such fund; providing an
34 effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Subsections (3) through (9) of section 365.172,
39 Florida Statutes, are amended, present subsections (9) through
40 (14) of that section are renumbered as subsections (10) through
41 (15), respectively, and a new subsection (9) is added to that
42 section, to read:

43 365.172 Emergency communications number "E911."—

44 (3) DEFINITIONS.—Only as used in this section and ss.
45 365.171, 365.173, and 365.174, the term:

46 (a) "Answering point" means the public safety agency that
47 receives incoming 911 calls and dispatches appropriate public
48 safety agencies to respond to the calls.

49 (b) "Authorized expenditures" means expenditures of the
50 fee, as specified in subsection (10) ~~(9)~~.

51 (c) "Automatic location identification" means the
52 capability of the E911 service which enables the automatic
53 display of information that defines the approximate geographic
54 location of the wireless telephone, or the location of the
55 address of the wireline telephone, used to place a 911 call.

56 (d) "Automatic number identification" means the capability
57 of the E911 service which enables the automatic display of the
58 service number used to place a 911 call.

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59 (e) "Board" or "E911 Board" means the board of directors of
60 the E911 Board established in subsection (5).

61 (f) "Building permit review" means a review for compliance
62 with building construction standards adopted by the local
63 government under chapter 553 and does not include a review for
64 compliance with land development regulations.

65 (g) "Collocation" means the situation when a second or
66 subsequent wireless provider uses an existing structure to
67 locate a second or subsequent antennae. The term includes the
68 ground, platform, or roof installation of equipment enclosures,
69 cabinets, or buildings, and cables, brackets, and other
70 equipment associated with the location and operation of the
71 antennae.

72 (h) "Designed service" means the configuration and manner
73 of deployment of service the wireless provider has designed for
74 an area as part of its network.

75 (i) "E911" is the designation for an enhanced 911 system or
76 enhanced 911 service that is an emergency telephone system or
77 service that provides a subscriber with 911 service and, in
78 addition, directs 911 calls to appropriate public safety
79 answering points by selective routing based on the geographical
80 location from which the call originated, or as otherwise
81 provided in the state plan under s. 365.171, and that provides
82 for automatic number identification and automatic location-
83 identification features. E911 service provided by a wireless
84 provider means E911 as defined in the order.

85 (j) "Existing structure" means a structure that exists at
86 the time an application for permission to place antennae on a
87 structure is filed with a local government. The term includes

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88 any structure that can structurally support the attachment of
89 antennae in compliance with applicable codes.

90 (k) "Fee" means the E911 fee authorized and imposed under
91 subsection (8) or the prepaid wireless E911 fee authorized and
92 imposed under subsection (9).

93 (l) "Fund" means the Emergency Communications Number E911
94 System Fund established in s. 365.173 and maintained under this
95 section for the purpose of recovering the costs associated with
96 providing 911 service or E911 service, including the costs of
97 implementing the order. The fund shall be segregated into
98 wireless, prepaid wireless, and nonwireless categories.

99 (m) "Historic building, structure, site, object, or
100 district" means any building, structure, site, object, or
101 district that has been officially designated as a historic
102 building, historic structure, historic site, historic object, or
103 historic district through a federal, state, or local designation
104 program.

105 (n) "Land development regulations" means any ordinance
106 enacted by a local government for the regulation of any aspect
107 of development, including an ordinance governing zoning,
108 subdivisions, landscaping, tree protection, or signs, the local
109 government's comprehensive plan, or any other ordinance
110 concerning any aspect of the development of land. The term does
111 not include any building construction standard adopted under and
112 in compliance with chapter 553.

113 (o) "Local exchange carrier" means a "competitive local
114 exchange telecommunications company" or a "local exchange
115 telecommunications company" as defined in s. 364.02.

116 (p) "Local government" means any municipality, county, or

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117 political subdivision or agency of a municipality, county, or
118 political subdivision.

119 (q) "Medium county" means any county that has a population
120 of 75,000 or more but less than 750,000.

121 (r) "Mobile telephone number" or "MTN" means the telephone
122 number assigned to a wireless telephone at the time of initial
123 activation.

124 (s) "Nonwireless category" means the revenues to the fund
125 received from voice communications services providers other than
126 wireless providers.

127 (t) "Office" means the Technology Program within the
128 Department of Management Services, as designated by the
129 secretary of the department.

130 (u) "Order" means:

131 1. The following orders and rules of the Federal
132 Communications Commission issued in FCC Docket No. 94-102:

133 a. Order adopted on June 12, 1996, with an effective date
134 of October 1, 1996, the amendments to s. 20.03 and the creation
135 of s. 20.18 of Title 47 of the Code of Federal Regulations
136 adopted by the Federal Communications Commission pursuant to
137 such order.

138 b. Memorandum and Order No. FCC 97-402 adopted on December
139 23, 1997.

140 c. Order No. FCC DA 98-2323 adopted on November 13, 1998.

141 d. Order No. FCC 98-345 adopted December 31, 1998.

142 2. Orders and rules subsequently adopted by the Federal
143 Communications Commission relating to the provision of 911
144 services, including Order Number FCC-05-116, adopted May 19,
145 2005.

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146 (v) "Prepaid wireless category" means all revenues in the
147 fund received through the Department of Revenue from the fee
148 authorized and imposed under subsection (9).

149 (w) "Prepaid wireless service" means a right to access
150 wireless service that allows a caller to contact and interact
151 with 911 to access the 911 system, which service must be paid
152 for in advance and is sold in predetermined units or dollars,
153 which units or dollars expire on a predetermined schedule or are
154 decremented on a predetermined basis in exchange for the right
155 to access wireless service.

156 ~~(v) "Prepaid calling arrangements" has the same meaning as~~
157 ~~defined in s. 212.05(1)(e).~~

158 (x)~~(w)~~ "Public agency" means the state and any
159 municipality, county, municipal corporation, or other
160 governmental entity, public district, or public authority
161 located in whole or in part within this state which provides, or
162 has authority to provide, firefighting, law enforcement,
163 ambulance, medical, or other emergency services.

164 (y)~~(x)~~ "Public safety agency" means a functional division
165 of a public agency which provides firefighting, law enforcement,
166 medical, or other emergency services.

167 (z) "Public safety answering point" or "PSAP" means the
168 public safety agency that receives incoming 911 requests for
169 assistance and dispatches appropriate public safety agencies to
170 respond to the requests in accordance with the state E911 plan.

171 (aa)~~(y)~~ "Rural county" means any county that has a
172 population of fewer than 75,000.

173 (bb)~~(z)~~ "Service identifier" means the service number,
174 access line, or other unique subscriber identifier assigned to a

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175 subscriber and established by the Federal Communications
176 Commission for purposes of routing calls whereby the subscriber
177 has access to the E911 system.

178 (cc)~~(aa)~~ "Tower" means any structure designed primarily to
179 support a wireless provider's antennae.

180 (dd)~~(bb)~~ "Voice communications services" means two-way
181 voice service, through the use of any technology, which actually
182 provides access to E911 services, and includes communications
183 services, as defined in s. 202.11, which actually provide access
184 to E911 services and which are required to be included in the
185 provision of E911 services pursuant to orders and rules adopted
186 by the Federal Communications Commission. The term includes
187 voice-over-Internet-protocol service. For the purposes of this
188 section, the term "voice-over-Internet-protocol service" or
189 "VoIP service" means interconnected VoIP services having the
190 following characteristics:

191 1. The service enables real-time, two-way voice
192 communications;

193 2. The service requires a broadband connection from the
194 user's locations;

195 3. The service requires IP-compatible customer premises
196 equipment; and

197 4. The service offering allows users generally to receive
198 calls that originate on the public switched telephone network
199 and to terminate calls on the public switched telephone network.

200 (ee)~~(cc)~~ "Voice communications services provider" or
201 "provider" means any person or entity providing voice
202 communications services, except that the term does not include
203 any person or entity that resells voice communications services

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204 and was assessed the fee authorized and imposed under subsection
205 (8) by its resale supplier.

206 (ff)~~(dd)~~ "Wireless 911 system" or "wireless 911 service"
207 means an emergency telephone system or service that provides a
208 subscriber with the ability to reach an answering point by
209 accessing the digits "911."

210 (gg)~~(ee)~~ "Wireless category" means the revenues to the fund
211 received from a wireless provider from the fee authorized and
212 imposed under subsection (8).

213 (hh)~~(ff)~~ "Wireless communications facility" means any
214 equipment or facility used to provide service and may include,
215 but is not limited to, antennae, towers, equipment enclosures,
216 cabling, antenna brackets, and other such equipment. Placing a
217 wireless communications facility on an existing structure does
218 not cause the existing structure to become a wireless
219 communications facility.

220 (ii)~~(gg)~~ "Wireless provider" means a person who provides
221 wireless service and:

- 222 1. Is subject to the requirements of the order; or
223 2. Elects to provide wireless 911 service or E911 service
224 in this state.

225 (jj)~~(hh)~~ "Wireless service" means "commercial mobile radio
226 service" as provided under ss. 3(27) and 332(d) of the Federal
227 Telecommunications Act of 1996, 47 U.S.C. ss. 151 et seq., and
228 the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-
229 66, August 10, 1993, 107 Stat. 312. The term includes service
230 provided by any wireless real-time two-way wire communication
231 device, including radio-telephone communications used in
232 cellular telephone service; personal communications service; or

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233 the functional or competitive equivalent of a radio-telephone
234 communications line used in cellular telephone service, a
235 personal communications service, or a network radio access line.
236 The term does not include wireless providers that offer mainly
237 dispatch service in a more localized, noncellular configuration;
238 providers offering only data, one-way, or stored-voice services
239 on an interconnected basis; providers of air-to-ground services;
240 or public coast stations.

241 (4) POWERS AND DUTIES OF THE OFFICE.—The office shall
242 oversee the administration of the fees ~~fee~~ authorized ~~and~~
243 ~~imposed on subscribers of voice communications services~~ under
244 subsections ~~subsection~~ (8) and (9).

245 (5) THE E911 BOARD.—

246 (a) The E911 Board is established to administer, with
247 oversight by the office, the fees ~~fee~~ imposed under subsections
248 ~~subsection~~ (8) and (9), including receiving revenues derived
249 from the fee; distributing portions of the revenues to wireless
250 providers, counties, and the office; accounting for receipts,
251 distributions, and income derived by the funds maintained in the
252 fund; and providing annual reports to the Governor and the
253 Legislature for submission by the office on amounts collected
254 and expended, the purposes for which expenditures have been
255 made, and the status of E911 service in this state. In order to
256 advise and assist the office in implementing the purposes of
257 this section, the board, which has the power of a body
258 corporate, has the powers enumerated in subsection (6).

259 (b) The board shall consist of 11 members, one of whom must
260 be the system director designated under s. 365.171(5), or his or
261 her designee, who shall serve as the chair of the board. The

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262 remaining 10 members of the board shall be appointed by the
263 Governor and must be composed of 5 county 911 coordinators,
264 consisting of a representative from a rural county, a
265 representative from a medium county, a representative from a
266 large county, and 2 at-large representatives recommended by the
267 Florida Association of Counties in consultation with the county
268 911 coordinators; 3 local exchange carrier member
269 representatives, one of whom must be a representative of the
270 local exchange carrier having the greatest number of access
271 lines in the state and one of whom must be a representative of a
272 certificated competitive local exchange telecommunications
273 company; and 2 member representatives from the wireless
274 telecommunications industry, with consideration given to
275 wireless providers that are not affiliated with local exchange
276 carriers. Not more than one member may be appointed to represent
277 any single provider on the board.

278 (c) The system director, designated under s. 365.171(5), or
279 his or her designee, must be a permanent member of the board.
280 Each of the remaining 10 ~~eight~~ members of the board shall be
281 appointed to a 4-year term and may not be appointed to more than
282 two successive terms. However, for the purpose of staggering
283 terms, two of the original board members shall be appointed to
284 terms of 4 years, two shall be appointed to terms of 3 years,
285 and four shall be appointed to terms of 2 years, as designated
286 by the Governor. A vacancy on the board shall be filled in the
287 same manner as the original appointment.

288 ~~(d) The first vacancy in a wireless provider representative~~
289 ~~position occurring after July 1, 2007, must be filled by~~
290 ~~appointment of a local exchange company representative. Until~~

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291 ~~the appointment is made, there shall be only one local exchange~~
292 ~~company representative serving on the board, notwithstanding any~~
293 ~~other provision to the contrary.~~

294 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.-

295 (a) The board shall:

- 296 1. Administer the E911 fee.
- 297 2. Implement, maintain, and oversee the fund.
- 298 3. Review and oversee the disbursement of the revenues
299 deposited into the fund as provided in s. 365.173.

300 a. The board may establish a schedule for implementing
301 wireless E911 service by service area, and prioritize
302 disbursements of revenues from the fund to providers and rural
303 counties as provided in s. 365.173(2)(e) ~~365.173(2)(d)~~ and (g)
304 pursuant to the schedule, in order to implement E911 services in
305 the most efficient and cost-effective manner.

306 b. Revenues in the fund which have not been disbursed
307 because sworn invoices as required by s. 365.173(2)(e)
308 ~~365.173(2)(d)~~ have not been submitted to the board may be used
309 by the board as needed to provide grants to counties for the
310 purpose of upgrading E911 systems. The counties must use the
311 funds only for capital expenditures directly attributable to
312 establishing and provisioning E911 services, which may include
313 next-generation deployment. Prior to the distribution of grants,
314 the board shall provide 90 days' written notice to all counties
315 and publish electronically an approved application process.
316 County grant applications shall be prioritized based on the
317 availability of funds, current system life expectancy, system
318 replacement needs, and Phase II compliance per the Federal
319 Communications Commission. No grants will be available to any

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320 county for next-generation deployment until all counties are
321 Phase II complete. The board shall take all actions within its
322 authority to ensure that county recipients of such grants use
323 these funds only for the purpose under which they have been
324 provided and may take any actions within its authority to secure
325 county repayment of grant revenues upon determination that the
326 funds were not used for the purpose under which they were
327 provided.

328 c. When determining the funding provided in a state 911
329 grant application request, the board shall take into account
330 information on the amount of carryforward funds retained by the
331 counties. The information will be based on the amount of county
332 carryforward funds reported in the financial audit required in
333 s. 365.173(2) (d). State E911 Grant Program funding requests will
334 be limited by any county carryforward funds in excess of the
335 allowable 30 percent amount of fee revenue calculated on a 2-
336 year basis.

337 ~~d.e.~~ The board shall reimburse all costs of a wireless
338 provider in accordance with s. 365.173(2) (e) ~~365.173(2) (d)~~
339 before taking any action to transfer additional funds.

340 ~~d. By September 1, 2007, the board shall authorize the~~
341 ~~transfer of up to \$15 million to the counties from existing~~
342 ~~money within the fund established under s. 365.173(1). The money~~
343 ~~shall be disbursed equitably to all of the counties using a~~
344 ~~timeframe and distribution methodology established by the board~~
345 ~~before September 1, 2007, in order to prevent a loss to the~~
346 ~~counties in the ordinary and expected time value of money caused~~
347 ~~by any timing delay in remittance to the counties of wireline~~
348 ~~fees caused by the one-time transfer of collecting wireline fees~~

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349 ~~by the counties to the board. All disbursements for this purpose~~
350 ~~must be returned to the fund from future remittances by the~~
351 ~~nonwireless category.~~

352 e. After taking the action required in sub-subparagraphs
353 a.-d., the board may review and, with all members participating
354 in the vote, adjust the percentage allocations or adjust the
355 amount of the fee as provided, ~~or both~~, under paragraph (8) (g)
356 ~~(8) (h)~~, and, if the board determines that the revenues in the
357 wireless category exceed the amount needed to reimburse wireless
358 providers for the cost to implement E911 services, the board may
359 transfer revenue to the counties from the existing funds within
360 the wireless category. The board shall disburse the funds
361 equitably to all counties using a timeframe and distribution
362 methodology established by the board.

363 4. Review documentation submitted by wireless providers
364 which reflects current and projected funds derived from the fee,
365 and the expenses incurred and expected to be incurred in order
366 to comply with the E911 service requirements contained in the
367 order for the purposes of:

368 a. Ensuring that wireless providers receive fair and
369 equitable distributions of funds from the fund.

370 b. Ensuring that wireless providers are not provided
371 disbursements from the fund which exceed the costs of providing
372 E911 service, including the costs of complying with the order.

373 c. Ascertaining the projected costs of compliance with the
374 requirements of the order and projected collections of the fee.

375 d. Implementing changes to the allocation percentages or
376 adjusting the fee under paragraph (8) (h) ~~(8) (i)~~.

377 5. Meet monthly in the most efficient and cost-effective

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378 manner, including telephonically when practical, for the
379 business to be conducted, to review and approve or reject, in
380 whole or in part, applications submitted by wireless providers
381 for recovery of moneys deposited into the wireless category, and
382 to authorize the transfer of, and distribute, the fee allocation
383 to the counties.

384 6. Hire and retain employees, which may include an
385 independent executive director who shall possess experience in
386 the area of telecommunications and emergency 911 issues, for the
387 purposes of performing the technical and administrative
388 functions for the board.

389 7. Make and enter into contracts, pursuant to chapter 287,
390 and execute other instruments necessary or convenient for the
391 exercise of the powers and functions of the board.

392 8. Sue and be sued, and appear and defend in all actions
393 and proceedings, in its corporate name to the same extent as a
394 natural person.

395 9. Adopt, use, and alter a common corporate seal.

396 10. Elect or appoint the officers and agents that are
397 required by the affairs of the board.

398 11. The board may adopt rules under ss. 120.536(1) and
399 120.54 to implement this section and ss. 365.173 and 365.174.

400 12. Provide coordination, support, and technical assistance
401 to counties to promote the deployment of advanced 911 and E911
402 systems in the state.

403 13. Provide coordination and support for educational
404 opportunities related to E911 issues for the E911 community in
405 this state.

406 14. Act as an advocate for issues related to E911 system

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407 functions, features, and operations to improve the delivery of
408 E911 services to the residents of and visitors to this state.

409 15. Coordinate input from this state at national forums and
410 associations, to ensure that policies related to E911 systems
411 and services are consistent with the policies of the E911
412 community in this state.

413 16. Work cooperatively with the system director established
414 in s. 365.171(5) to enhance the state of E911 services in this
415 state and to provide unified leadership for all E911 issues
416 through planning and coordination.

417 17. Do all acts and things necessary or convenient to carry
418 out the powers granted in this section in a manner that is
419 competitively and technologically neutral as to all voice
420 communications services providers, including, but not limited
421 to, consideration of emerging technology and related cost
422 savings, while taking into account embedded costs in current
423 systems.

424 18. Have the authority to secure the services of an
425 independent, private attorney via invitation to bid, request for
426 proposals, invitation to negotiate, or professional contracts
427 for legal services already established at the Division of
428 Purchasing of the Department of Management Services.

429 (b) Board members shall serve without compensation;
430 however, members are entitled to per diem and travel expenses as
431 provided in s. 112.061.

432 (c) By February 28 of each year, the board shall prepare a
433 report for submission by the office to the Governor, the
434 President of the Senate, and the Speaker of the House of
435 Representatives which addresses for the immediately preceding

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436 state fiscal year and county fiscal ~~ealendar~~ year:

437 1. The annual receipts, including the total amount of fee
438 revenues collected by each provider, the total disbursements of
439 money in the fund, including the amount of fund-reimbursed
440 expenses incurred by each wireless provider to comply with the
441 order, and the amount of moneys on deposit in the fund.

442 2. Whether the amount of the fee and the allocation
443 percentages set forth in s. 365.173 have been or should be
444 adjusted to comply with the requirements of the order or other
445 provisions of this chapter, and the reasons for making or not
446 making a recommended adjustment to the fee.

447 3. Any other issues related to providing E911 services.

448 4. The status of E911 services in this state.

449 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING FIRM.—

450 (a) The board shall issue a request for proposals as
451 provided in chapter 287 for the purpose of retaining an
452 independent accounting firm. The independent accounting firm
453 shall perform all material administrative and accounting tasks
454 and functions required for administering the fee. The request
455 for proposals must include, but need not be limited to:

456 1. A description of the scope and general requirements of
457 the services requested.

458 2. A description of the specific accounting and reporting
459 services required for administering the fund, including
460 processing checks and distributing funds as directed by the
461 board under s. 365.173.

462 3. A description of information to be provided by the
463 proposer, including the proposer's background and qualifications
464 and the proposed cost of the services to be provided.

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465 (b) The board shall establish a committee to review
466 requests for proposals which must include the statewide E911
467 system director designated under s. 365.171(5), or his or her
468 designee, and two members of the board, one of whom is a county
469 911 coordinator and one of whom represents a voice
470 communications services provider. The review committee shall
471 review the proposals received by the board and recommend an
472 independent accounting firm to the board for final selection. By
473 agreeing to serve on the review committee, each member of the
474 review committee shall verify that he or she does not have any
475 interest or employment, directly or indirectly, with potential
476 proposers which conflicts in any manner or degree with his or
477 her performance on the committee.

478 (c) ~~After July 1, 2004,~~ The board may secure the services
479 of an independent accounting firm via invitation to bid, request
480 for proposals, invitation to negotiate, or professional
481 contracts already established at the Division of Purchasing,
482 Department of Management Services, for certified public
483 accounting firms, or the board may hire and retain professional
484 accounting staff to accomplish these functions.

485 (8) E911 FEE.—

486 (a) Each voice communications services provider shall
487 collect the fee described in this subsection. Each provider, as
488 part of its monthly billing process, shall bill the fee as
489 follows. The fee shall not be assessed on any pay telephone in
490 the state.

491 1. Each voice communications service provider other than a
492 wireless provider shall bill the fee to a subscriber based on
493 the number of access lines having access to the E911 system, on

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494 a service-identifier basis, up to a maximum of 25 access lines
495 per account bill rendered.

496 2. Each voice communications service provider other than a
497 wireless provider shall bill the fee to a subscriber on a basis
498 of five service-identified access lines for each digital
499 transmission link, including primary rate interface service or
500 equivalent Digital-Signal-1-level service, which can be
501 channelized and split into 23 or 24 voice-grade or data-grade
502 channels for communications, up to a maximum of 25 access lines
503 per account bill rendered.

504 3. Except in the case of prepaid wireless service, each
505 wireless provider shall bill the fee to a subscriber on a per-
506 service-identifier basis for service identifiers whose primary
507 place of use is within this state. ~~Before July 1, 2013, the fee~~
508 ~~shall not be assessed on or collected from a provider with~~
509 ~~respect to an end user's service if that end user's service is a~~
510 ~~prepaid calling arrangement that is subject to s. 212.05(1)(c).~~

511 a. ~~An E911 fee shall not be collected from the sale of~~
512 ~~prepaid wireless service before July 1, 2013.~~

513 b. ~~For purposes of this section, the term:~~

514 (I) ~~"Prepaid wireless service" means the right to access~~
515 ~~telecommunications services, which must be paid for in advance~~
516 ~~and sold in predetermined units or dollars enabling the~~
517 ~~originator to make calls such that the number of units or~~
518 ~~dollars declines with use in a known amount.~~

519 (II) ~~"Prepaid wireless service providers" includes those~~
520 ~~persons who sell prepaid wireless service regardless of its~~
521 ~~form, as a retailer or reseller.~~

522 4. Except in the case of prepaid wireless service, each The

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523 voice communications services provider ~~providers~~ not addressed
524 under subparagraphs 1., 2., and 3. shall bill the fee on a per-
525 service-identifier basis for service identifiers whose primary
526 place of use is within the state up to a maximum of 25 service
527 identifiers for each account bill rendered.

528

529 The provider may list the fee as a separate entry on each bill,
530 in which case the fee must be identified as a fee for E911
531 services. A provider shall remit the fee to the board only if
532 the fee is paid by the subscriber. If a provider receives a
533 partial payment for a monthly bill from a subscriber, the amount
534 received shall first be applied to the payment due the provider
535 for providing voice communications service.

536 (b) A provider is not obligated to take any legal action to
537 enforce collection of the fees for which any subscriber is
538 billed. A county subscribing to 911 service remains liable to
539 the provider delivering the 911 service or equipment for any 911
540 service, equipment, operation, or maintenance charge owed by the
541 county to the provider.

542 (c) For purposes of this section, the state and local
543 governments are not subscribers.

544 (d) Each provider may retain 1 percent of the amount of the
545 fees collected as reimbursement for the administrative costs
546 incurred by the provider to bill, collect, and remit the fee.
547 The remainder shall be delivered to the board and deposited by
548 the board into the fund. The board shall distribute the
549 remainder pursuant to s. 365.173.

550 (e) ~~Effective September 1, 2007,~~ Voice communications
551 services providers billing the fee to subscribers shall deliver

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552 revenues from the fee to the board within 60 days after the end
553 of the month in which the fee was billed, together with a
554 monthly report of the number of service identifiers in each
555 county. Each wireless provider and other applicable provider
556 identified in subparagraph (a)4. shall report the number of
557 service identifiers for subscribers whose place of primary use
558 is in each county. All provider subscriber information provided
559 to the board is subject to s. 365.174. If a provider chooses to
560 remit any fee amounts to the board before they are paid by the
561 subscribers, a provider may apply to the board for a refund of,
562 or may take a credit for, any such fees remitted to the board
563 which are not collected by the provider within 6 months
564 following the month in which the fees are charged off for
565 federal income tax purposes as bad debt.

566 (f) The rate of the fee ~~shall be set by the board after~~
567 ~~considering the factors set forth in paragraphs (h) and (i), but~~
568 may not exceed 50 cents per month per each service identifier.
569 Beginning on January 1, 2014, the fee shall be 46 cents. The fee
570 shall apply uniformly and be imposed throughout the state,
571 except for those counties that, before July 1, 2007, had adopted
572 an ordinance or resolution establishing a fee less than 50 cents
573 per month per access line. In those counties the fee established
574 by ordinance may be changed only to the uniform statewide rate
575 no sooner than 30 days after notification is made by the
576 county's board of county commissioners to the board.

577 ~~(g) It is the intent of the Legislature that all revenue~~
578 ~~from the fee be used as specified in s. 365.173(2)(a)-(i).~~

579 ~~(g)(h) No later than November 1, 2007, The board may adjust~~
580 the allocation percentages for distribution of the fund as

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581 provided in s. 365.173. After January 1, 2015, the board may
582 adjust the rate of the fee under paragraph (f) based on the
583 criteria in this paragraph and paragraph (h). Any adjustment in
584 the rate must be approved by a two-thirds vote of the total
585 number of E911 board members. When setting the percentages or
586 ~~and~~ contemplating any adjustments to the fee, the board shall
587 consider the following:

588 1. The revenues currently allocated for wireless service
589 provider costs for implementing E911 service and projected costs
590 for implementing E911 service, including recurring costs for
591 Phase I and Phase II and the effect of new technologies;

592 2. The appropriate level of funding needed to fund the
593 rural grant program provided for in s. 365.173(2)(g); and

594 3. The need to fund statewide, regional, and county grants
595 in accordance with sub-subparagraph (6)(a)3.b.

596 (h) ~~(i)~~ The board may adjust the allocation percentages or
597 adjust the amount of the fee as provided in paragraph (g), ~~or~~
598 ~~both,~~ if necessary to ensure full cost recovery or prevent
599 overrecovery of costs incurred in the provision of E911 service,
600 including costs incurred or projected to be incurred to comply
601 with the order. Any new allocation percentages or reduced or
602 increased fee may not be adjusted for 1 year. In no event shall
603 the fee may not exceed 50 cents per month for ~~per~~ each service
604 identifier. The ~~board-established~~ fee, and any board adjustment
605 of the fee, shall be uniform throughout the state, except for
606 the counties identified in paragraph (f). No less than 90 days
607 before the effective date of any adjustment to the fee, the
608 board shall provide written notice of the adjusted fee amount
609 and effective date to each voice communications services

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610 provider from which the board is then receiving the fee.

611 (i) It is the intent of the Legislature that all revenue
612 from the fee be used as specified in s. 365.173(2)(a)-(i).

613 (j) State and local taxes do not apply to the fee. The
614 amount of the E911 fee collected by a seller or provider may not
615 be included in the base for measuring any tax, fee, surcharge,
616 or other charge imposed by this state, any political subdivision
617 of this state, or any governmental agency.

618 (k) A local government may not levy the fee or any
619 additional fee on providers, ~~or~~ subscribers, or sellers of
620 prepaid wireless services for the provision of E911 service.

621 (l) For purposes of this section, the definitions contained
622 in s. 202.11 and the provisions of s. 202.155 apply in the same
623 manner and to the same extent as the definitions and provisions
624 apply to the taxes levied under chapter 202 on mobile
625 communications services.

626 (9) PREPAID WIRELESS E911 FEE.—

627 (a) There is imposed a prepaid wireless E911 fee per retail
628 transaction at the rate and in the manner set forth in
629 paragraphs (8)(f)-(h). Beginning January 1, 2014, the fee shall
630 be 46 cents. In no event shall the fee exceed 50 cents per month
631 for each retail transaction. No less than 90 days before the
632 effective date of any adjustment to the fee under paragraph
633 (8)(g), the Department of Revenue shall provide written notice
634 of the adjusted fee amount and its effective date to each seller
635 from which the department is then receiving the fee.

636 (b) The prepaid wireless E911 fee shall be collected by the
637 seller from the consumer with respect to each retail transaction
638 occurring in this state. The amount of the prepaid wireless E911

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639 fee shall either be separately stated on an invoice, receipt, or
640 other similar document that is provided to the consumer by the
641 seller or otherwise disclosed to the consumer.

642 (c) For purposes of paragraph (b), a retail transaction
643 that is effected in person by a consumer at a business location
644 of the seller shall be treated as occurring in this state if
645 that business location is in this state, and any other retail
646 transaction shall be treated as occurring in this state if the
647 retail transaction is treated as occurring in this state under
648 s. 212.05(1) (e)1.a.(II).

649 (d) If a prepaid wireless device is sold for a single,
650 nonitemized price with a prepaid wireless service of 10 minutes
651 or less or \$5 or less, the seller may elect not to apply the
652 wireless E911 fee to the transaction.

653 (e) The prepaid wireless E911 fee is the liability of the
654 consumer and not of the seller or of any provider, except that
655 the seller is liable to remit all prepaid wireless E911 fees
656 that the seller collects from consumers as provided in this
657 subsection, including all such charges that the seller is deemed
658 to collect where the amount of the charge has not been
659 separately stated on an invoice, receipt, or other similar
660 document provided to the consumer by the seller.

661 (f) The amount of the prepaid wireless E911 fee that is
662 collected by a seller from a consumer, whether or not such
663 amount is separately stated on an invoice, receipt, or similar
664 document provided to the consumer by the seller, shall not be
665 included in the base for measuring any tax, fee, surcharge, or
666 other charge that is imposed by this state, any political
667 subdivision of this state, or any intergovernmental agency.

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668 (g) Prepaid wireless E911 fees collected by sellers shall
669 be remitted to the Department of Revenue at the times and in the
670 manner provided under s. 212.11. The Department of Revenue shall
671 aggregate and identify the prepaid wireless E911 fee by the
672 county in which the fee was collected. The Department of Revenue
673 shall establish registration and payment procedures that
674 substantially coincide with the registration and payment
675 procedures that apply to the tax imposed by chapter 212.

676 (h) The Department of Revenue shall retain up to 1 percent
677 of the funds remitted under this subsection to reimburse its
678 direct costs of administering the collection and remittance of
679 prepaid wireless fees. Thereafter, the department shall transfer
680 all remaining funds remitted under this subsection to the E911
681 Board within 30 days after receipt for use as provided in
682 subsection (5).

683 (i) In order to allow sellers of all sizes and
684 technological capabilities adequate time to comply with this
685 subsection, a seller will begin collecting the prepaid wireless
686 fee November 1, 2013. From November 1, 2013, until December 31,
687 2013, the fee will be in the amount of 46 cents. Sellers will
688 retain 100 percent of collections for 2 months to offset the
689 cost of setup.

690 (j) Beginning January 1, 2014, a seller may retain 5
691 percent of the prepaid wireless E911 fees that are collected by
692 the seller from consumers.

693 (k) The audit and appeals procedures applicable under s.
694 212.13 apply to prepaid wireless E911 fees.

695 (l) The Department of Revenue shall establish procedures
696 for a seller of prepaid wireless service to document that a sale

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697 is not a retail transaction. The procedures shall substantially
698 coincide with the procedures for documenting a sale for resale
699 transaction under s. 212.186.

700 (m) A provider or seller of prepaid wireless service is not
701 liable for damages to any person resulting from or incurred in
702 connection with providing or failing to provide 911 or E911
703 service or for identifying or failing to identify the telephone
704 number, address, location, or name associated with any person or
705 device that is accessing or attempting to access 911 or E911
706 service.

707 (n) A provider or seller of prepaid wireless service is not
708 liable for damages to any person resulting from or incurred in
709 connection with providing any lawful assistance to any
710 investigative or law enforcement officer of the United States,
711 any state, or any political subdivision of any state in
712 connection with any lawful investigation or other law
713 enforcement activity by such law enforcement officer.

714 (o) The limitations of liability under this subsection for
715 providers and sellers are in addition to any other limitation of
716 liability provided for under this section.

717 (p) A local government may not levy any additional fee on
718 providers or sellers of prepaid wireless service for the
719 provision of E911 service.

720 (q) For purposes of this section, the state and local
721 governments are not subscribers.

722 (r) For purposes of this subsection, the term:

723 1. "Consumer" means a person who purchases prepaid wireless
724 service in a retail sale.

725 2. "Prepaid wireless E911 fee" means the fee that is

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726 required to be collected by a seller from a consumer in the
727 amount established under paragraphs (8) (f) - (h).

728 3. "Provider" means a person that provides prepaid wireless
729 service pursuant to a license issued by the Federal
730 Communications Commission.

731 4. "Retail transaction" means the purchase of prepaid
732 wireless service from a seller for any purpose other than
733 resale.

734 5. "Seller" means a person who sells prepaid wireless
735 service to another person.

736 (10)(9) AUTHORIZED EXPENDITURES OF E911 FEE.-

737 (a) For purposes of this section, E911 service includes the
738 functions of database management, call taking, dispatching,
739 location verification, and call transfer. Department of Health
740 certification and recertification and training costs for 911
741 public safety telecommunications, including dispatching, are
742 functions of 911 services.

743 (b) All costs directly attributable to the establishment or
744 provision of E911 service and contracting for E911 services are
745 eligible for expenditure of moneys derived from imposition of
746 the fee authorized by this section. These costs include the
747 acquisition, implementation, and maintenance of Public Safety
748 Answering Point (PSAP) equipment and E911 service features, as
749 defined in the providers' published schedules ~~Public Service~~
750 ~~Commission's lawfully approved 911 and E911 and related tariffs~~
751 or the acquisition, installation, and maintenance of other E911
752 equipment, including circuits, call answering equipment, call
753 transfer equipment, ANI controllers, ALI controllers, ANI
754 displays, ALI displays, station instruments, E911

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755 telecommunications systems, visual call information and storage
756 devices, recording equipment, telephone devices and other
757 equipment for the hearing impaired used in the E911 system, PSAP
758 backup power systems, consoles, automatic call distributors, and
759 interfaces, including hardware and software, for computer-aided
760 dispatch (CAD) systems, integrated CAD systems for that portion
761 of the systems used for E911 call taking, GIS system and
762 software equipment and information displays, network clocks,
763 salary and associated expenses for E911 call takers for that
764 portion of their time spent taking and transferring E911 calls,
765 salary and associated expenses for a county to employ a full-
766 time equivalent E911 coordinator position and a full-time
767 equivalent mapping or geographical data position, and technical
768 system maintenance, database, and administration personnel ~~and a~~
769 ~~staff assistant position per county~~ for the portion of their
770 time spent administrating the E911 system, emergency medical,
771 fire, and law enforcement prearrival instruction software,
772 charts and training costs, training costs for PSAP call takers,
773 supervisors, and managers in the proper methods and techniques
774 used in taking and transferring E911 calls, costs to train and
775 educate PSAP employees regarding E911 service or E911 equipment,
776 including fees collected by the Department of Health for the
777 certification and recertification of 911 public safety
778 telecommunicators as required under s. 401.465, and expenses
779 required to develop and maintain all information, including ALI
780 and ANI databases and other information source repositories,
781 necessary to properly inform call takers as to location address,
782 type of emergency, and other information directly relevant to
783 the E911 call-taking and transferring function. Moneys derived

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784 from the fee may also be used for next-generation E911 network
785 services, next-generation E911 database services, next-
786 generation E911 equipment, and wireless E911 routing systems.

787 (c) The moneys may not be used to pay for any item not
788 listed in this subsection, including, but not limited to, any
789 capital or operational costs for emergency responses which occur
790 after the call transfer to the responding public safety entity
791 and the costs for constructing, leasing, maintaining, or
792 renovating buildings, except for those building modifications
793 necessary to maintain the security and environmental integrity
794 of the PSAP and E911 equipment rooms.

795 Section 2. Section 365.173, Florida Statutes, is amended to
796 read:

797 365.173 Emergency Communications Number E911 System Fund.—

798 (1) (a) All revenues derived from the fee levied on
799 subscribers under s. 365.172 (8) must be paid by the board into
800 the State Treasury on or before the 15th day of each month. Such
801 moneys must be accounted for in a special fund to be designated
802 as the Emergency Communications Number E911 System Fund, a fund
803 created in the Technology Program, or other office as designated
804 by the Secretary of Management Services. All revenues derived
805 from the fee levied on prepaid wireless service under s.
806 365.172 (9) must be paid by the Department of Revenue into the
807 Emergency Communications Number E911 System Fund on or before
808 the 15th day of each month. ~~and~~ For accounting purposes, the
809 Emergency Communications Number E911 System Fund must be
810 segregated into three ~~two~~ separate categories:

811 1. (a) The wireless category; ~~and~~

812 2. (b) The nonwireless category; and

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813 3. The prepaid wireless category.

814 (b) All moneys must be invested by the Chief Financial
815 Officer pursuant to s. 17.61. All moneys in such fund are to be
816 expended by the office for the purposes provided in this section
817 and s. 365.172. These funds are not subject to s. 215.20.

818 (2) As determined by the board pursuant to s. 365.172(8)(g)
819 ~~365.172(8)(h)~~, and subject to any modifications approved by the
820 board pursuant to s. 365.172(6)(a)3. or (8)(h) ~~(8)(i)~~, the
821 moneys in the fund shall be distributed and used only as
822 follows:

823 (a) Seventy-six ~~Sixty-seven~~ percent of the moneys in the
824 wireless category shall be distributed each month to counties,
825 based on the total number of service identifiers in each county,
826 and shall be used exclusively for payment of:

827 1. Authorized expenditures, as specified in s. 365.172(10)
828 ~~365.172(9)~~.

829 2. Costs to comply with the requirements for E911 service
830 contained in the order and any future rules related to the
831 order.

832 (b) Ninety-six ~~Ninety-seven~~ percent of the moneys in the
833 nonwireless category shall be distributed each month to counties
834 based on the total number of service identifiers in each county
835 and shall be used exclusively for payment of authorized
836 expenditures, as specified in s. 365.172(10) ~~365.172(9)~~.

837 (c) Sixty-one percent of the moneys in the prepaid wireless
838 category shall be distributed each month to counties based on
839 the total number of sales in each county and shall be used
840 exclusively for payment of authorized expenditures, as specified
841 in s. 365.172(10).

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842 (d)~~(e)~~ Any county that receives funds under paragraphs (a),
843 ~~and (b), and (c)~~ shall establish a fund to be used exclusively
844 for the receipt and expenditure of the revenues collected under
845 paragraphs (a), ~~and (b), and (c)~~. All fees placed in the fund
846 and any interest accrued shall be used solely for costs
847 described in subparagraphs (a)1. and 2. and may not be reduced,
848 withheld, or allocated for other purposes. The money collected
849 and interest earned in this fund shall be appropriated for these
850 purposes by the county commissioners and incorporated into the
851 annual county budget. The fund shall be included within the
852 financial audit performed in accordance with s. 218.39. The
853 financial audit shall assure that all E911 fee revenues,
854 interest, and E911 grant funding are used for payment of
855 authorized expenditures, as specified in s. 365.172(10) and as
856 specified in the E911 Board grant and special disbursement
857 programs. The county is responsible for all expenditures of
858 revenues distributed from the county E911 fund and shall submit
859 the financial audit reports to the board for review. A county
860 may carry forward up to 30 percent of the total funds disbursed
861 to the county by the board during a calendar year for
862 expenditures for capital outlay, capital improvements, or
863 equipment replacement, if such expenditures are made for the
864 purposes specified in subparagraphs (a)1. and 2.; however, the
865 30-percent limitation does not apply to funds disbursed to a
866 county under s. 365.172(6)(a)3., and a county may carry forward
867 any percentage of the funds, except that any grant provided
868 shall continue to be subject to any condition imposed by the
869 board. In order to prevent an excess recovery of costs incurred
870 in providing E911 service, a county that receives funds greater

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871 than the permissible E911 costs described in s. 365.172(10)
872 ~~365.172(9)~~, including the 30-percent carryforward allowance,
873 must return the excess funds to the E911 board to be allocated
874 under s. 365.172(6) (a).

875 (e) ~~(d)~~ Twenty ~~Thirty~~ percent of the moneys in the wireless
876 category shall be distributed to wireless providers in response
877 to sworn invoices submitted to the board by wireless providers
878 to reimburse such wireless providers for the actual costs
879 incurred to provide 911 or E911 service, including the costs of
880 complying with the order. Such costs include costs and expenses
881 incurred by wireless providers to design, purchase, lease,
882 program, install, test, upgrade, operate, and maintain all
883 necessary data, hardware, and software required to provide E911
884 service. Each wireless provider shall submit to the board, by
885 August 1 of each year, a detailed estimate of the capital and
886 operating expenses for which it anticipates that it will seek
887 reimbursement under this paragraph during the ensuing state
888 fiscal year. In order to be eligible for recovery during any
889 ensuing state fiscal year, a wireless provider must submit all
890 sworn invoices for allowable purchases made within the previous
891 calendar year no later than March 31 of the fiscal year. By
892 September 15 of each year, the board shall submit to the
893 Legislature its legislative budget request for funds to be
894 allocated to wireless providers under this paragraph during the
895 ensuing state fiscal year. The budget request shall be based on
896 the information submitted by the wireless providers and
897 estimated surcharge revenues. Distributions of moneys in the
898 fund by the board to wireless providers must be fair and
899 nondiscriminatory. If the total amount of moneys requested by

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900 wireless providers pursuant to invoices submitted to the board
901 and approved for payment exceeds the amount in the fund in any
902 month, wireless providers that have invoices approved for
903 payment shall receive a pro rata share of moneys in the fund and
904 the balance of the payments shall be carried over to the
905 following month or months until all of the approved payments are
906 made. The board may adopt rules necessary to address the manner
907 in which pro rata distributions are made when the total amount
908 of funds requested by wireless providers pursuant to invoices
909 submitted to the board exceeds the total amount of moneys on
910 deposit in the fund.

911 ~~(e) Notwithstanding paragraphs (a) and (d), the amount of~~
912 ~~money that remained in the wireless 911 system fund on December~~
913 ~~31, 2006, must be disbursed to wireless providers for the~~
914 ~~recovery of allowable costs incurred in previous years ending~~
915 ~~December 31, 2006, and in accordance with paragraph (d). In~~
916 ~~order to be eligible for recovered costs incurred under~~
917 ~~paragraph (d), a wireless provider must submit sworn invoices to~~
918 ~~the board by December 31, 2007. The board must disburse the~~
919 ~~designated funds in the wireless 911 system fund on or after~~
920 ~~January 1, 2008.~~

921 (f) One percent of the moneys in each category of the fund
922 shall be retained by the board to be applied to costs and
923 expenses incurred for the purposes of managing, administering,
924 and overseeing the receipts and disbursements from the fund and
925 other activities as defined in s. 365.172(6). Any funds retained
926 for such purposes in a calendar year which are not applied to
927 such costs and expenses by March 31 of the following year shall
928 be redistributed as determined by the board.

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929 (g) Three ~~Two~~ percent of the moneys in each category of the
930 fund shall be used to make monthly distributions to rural
931 counties for the purpose of providing facilities and network and
932 service enhancements and assistance for the 911 or E911 systems
933 operated by rural counties and for the provision of grants by
934 the office to rural counties for upgrading and replacing E911
935 systems.

936 (h) Thirty-five percent of the moneys in the prepaid
937 wireless category shall be retained by the board to provide
938 state E911 grants to be awarded in accordance with the following
939 order of priority: By September 1, 2007, up to \$15 million of
940 the existing 911 system fund shall be available for distribution
941 by the board to the counties in order to prevent a loss in the
942 ordinary and expected time value of money caused by any timing
943 delay in remittance to the counties of wireline fees caused by
944 the one-time transfer of collecting wireline fees by the
945 counties to the board. All disbursements for this purpose must
946 be returned to the fund from the future remittance by the
947 nonwireless category.

948 1. For all large, medium, and rural counties to upgrade or
949 replace E911 systems.

950 2. For all large, medium, and rural counties to develop and
951 maintain statewide 911 routing, geographic, and management
952 information systems.

953 3. For all large, medium, and rural counties to develop and
954 maintain next-generation 911 services and equipment.

955 (i) If the wireless category has funds remaining in it on
956 December 31 after disbursements have been made during the
957 calendar year immediately prior to December 31, the board may

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958 disburse the excess funds in the wireless category in accordance
959 with s. 365.172(6)(a)3.b.

960 (3) The Legislature recognizes that the fee authorized
961 under s. 365.172 may not necessarily provide the total funding
962 required for establishing or providing the E911 service. It is
963 the intent of the Legislature that all revenue from the fee be
964 used as specified in ~~this~~ subsection (2).

965 Section 3. This act shall take effect July 1, 2013.