

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 175 Emergency Communication System

SPONSOR(S): Regulatory Affairs Committee; Finance & Tax Subcommittee; Steube and others

TIED BILLS: CS/HB 177 **IDEN./SIM. BILLS:** SB 294

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	13 Y, 1 N	Whittier	Keating
2) Finance & Tax Subcommittee	17 Y, 0 N, As CS	Flieger	Langston
3) Regulatory Affairs Committee	17 Y, 0 N, As CS	Whittier	Hamon

SUMMARY ANALYSIS

Under current law, the Emergency Communications Number E911 Act establishes a statewide E911 system for wireless telephone users. To fund the E911 system, the act imposes a monthly 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 wireless providers for costs incurred to provide 911 or E911 services. Voice communications services providers are required 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. Since July 1, 2013, state law has required collection of the fee from the sale of prepaid wireless service, though no specific mechanism is provided for collection of the fee on this type of product. According to the 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 loss of \$13.6 million in 2012.

The E911 Board (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 E911 Trust Fund to county governments and wireless providers. The Board has the authority to adjust the level of the fee, within the \$0.50 cap, once annually.

The bill amends ss. 365.172 and 365.173, F.S., as follows:

- Provides a mechanism for collection of the E911 fee on prepaid wireless services by retailers at the point of sale and establishes a new category in the E911 Trust Fund for revenues derived from this fee.
- Sets the E911 fee at \$0.40 per month per service identifier (for post-paid voice communications services) and applies this fee to prepaid wireless service for each retail transaction.
- Retains the existing E911 fee cap of \$0.50 and allows the Board, no sooner than June 1, 2015, to adjust the rate under this cap by a two-thirds vote of the Board membership.
- Expands the list of authorized county expenditures for which E911 system funds may be used.
- Modifies the percentage of funds to be distributed to counties, such that counties will receive 96 percent of the moneys in the wireline category, 76 percent of the moneys in the wireless category (up from 67 percent), and 61 percent of the moneys in the new prepaid wireless category.
- Reduces the percentage of funds available for distribution to wireless providers from 30 percent to 20 percent.
- Provides that 35 percent of the moneys in the new prepaid wireless category will be retained by the Board to provide E911 grants to counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment.
- Amends and creates definitions to conform to the substantive provisions of the bill, removes obsolete provisions, and amends cross-references.

The Revenue Estimating Conference estimates that in FY 2014-15 the bill will have an impact on state trust funds of negative \$1.0 million and a positive \$3.2 million recurring in future years. A nonrecurring appropriation of \$250,000 is provided to the Department of Revenue (DOR) for first-year implementing costs. DOR may retain an administrative charge of up to 3.2 percent of the funds remitted from prepaid wireless E911 fees to cover any remaining costs before transferring the remainder to the E911 Trust Fund. Amounts retained by DOR are estimated to be \$190,713 in FY 2014-15 and \$461,525 each year thereafter. After accounting for amounts retained by DOR the impact to the E911 Trust Fund should be negative \$1.2 million in FY 2014-15 and positive \$2.7 million recurring.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 3/24/2014

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 monthly 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 wireless 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. There is no mechanism in place for collection of the fee from the sale of prepaid wireless services.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. The fee is currently at the \$0.50 cap except for nonwireless access line services in three counties that – via ordinance prior to 2007 – had a lower rate established.⁴

All 67 counties in Florida have reported capability to receive a call back number and location provided for a cellular caller from the service provider.⁵ 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 Internet Protocol (IP) networks and system replacements, though the development of an NG-911 system will likely involve a multi-year transition.⁶

E911 Fees for Prepaid Wireless Service

In 2006, the Board was required⁷ 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.⁸

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

¹ Formerly known as the Wireless Emergency Communications Act (Chapter 99-367, L.O.F., codified in s. 365.172, F.S.).

² Prepaid wireless service is defined as "the right to access telecommunications services, which must be paid for in advance and 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 Department of Management Services, Legislative Bill Analysis of HB 175 (November 29, 2013) (on file with the Energy & Utilities Subcommittee).

⁵ Florida Department of Management Services, *Florida E911*, available at http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited March 2014).

⁶ *2012 Annual Report of the E911 Board*.

⁷ See proviso language accompanying specific appropriation 2946 of the Fiscal Year 2006-07 General Appropriations Act (HB 5001).

⁸ Florida Department of Management Services, E911 Board, *2006 Wireline and Wireless 911 Fee Evaluation Legislative Report* (Sept. 29, 2006).

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.⁹ The resulting report concluded that it is feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis.¹⁰

In 2010, the Legislature extended the suspension of E911 fee collections for prepaid wireless service through July 1, 2013.¹¹

The following chart shows revenue collected broken down into wireless and non-wireless sources.

State of Florida E911 Fee Revenue ¹²					
Fiscal Year	2009-10	2010-11	2011-12	2012-13	2013-14*
Wireless	\$77,004,396	\$76,696,820	\$70,780,526	\$64,860,906	\$65,917,027
NonWireless	\$48,200,068	\$46,109,695	\$44,183,675	\$42,994,297	\$40,719,675
Totals	\$125,204,464	\$122,806,515	\$114,964,201	\$107,855,203	\$106,636,702

*DMS Estimate

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.¹³ 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.¹⁴ 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 exclusively to pay for expenditures related to establishing or providing E911 services and contracting for E911 services.¹⁵

Section 365.172(9), 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

⁹ Chapter 2007-78, L.O.F.

¹⁰ Florida Department of Management Services, E911 Board, *E911 Prepaid Wireless Fee Collection and E911 Fee Exemptions: A Feasibility Analysis*, p. 106 (December 15, 2008), available at http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911/e911_board_prepaid_study (last visited March 2014).

¹¹ Chapter 2010-50, L.O.F.

¹² Florida Department of Management Services, E911 Board, *2012 Annual Report*, p.40. Available at <http://www.dms.myflorida.com/content/download/89127/509584/2012> (last visited March 2014).

¹³ Section 365.173(1), F.S.

¹⁴ Section 365.173(2)(a), F.S. See also s. 365.172(9), F.S.

¹⁵ Section 365.173(2)(b), F.S.

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.¹⁶ 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.¹⁷

A provider is not obligated to take legal action to enforce collection of the E911 fee for which a consumer is billed.¹⁸

Effect of Proposed Changes

The bill amends ss. 365.172 and 365.173, F.S., as follows:

- Specifies a mechanism for collection of the E911 fee on prepaid wireless services by retailers at the point of sale.
- Establishes a new category in the E911 Trust Fund for revenues derived from the fee applied to prepaid wireless service.
- Sets the E911 fee at \$0.40 per month per service identifier (for post-paid voice communications services) and applies this fee to prepaid wireless service for each retail transaction.
- Retains the existing E911 fee cap of \$0.50 and allows the E911 Board (Board), no sooner than June 1, 2015, to adjust the rate under this cap by a two-thirds vote of the total number of all Board members.
- Expands the list of authorized county expenditures for which E911 system funds may be used.
- Modifies the percentage of funds to be distributed to counties, such that counties will receive 96 percent of the moneys in the wireline category, 76 percent of the moneys in the wireless category (up from 67 percent), and 61 percent of the moneys in the new prepaid wireless category.
- Reduces the percentage of funds available for distribution to wireless providers from 30 percent to 20 percent.
- Provides that 35 percent of the moneys in the new prepaid wireless category will be retained by the Board to provide E911 grants to counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment.
- Amends and creates definitions to conform to the substantive provisions of the bill.
- Removes obsolete provisions and amends cross-references.

The bill provides the following dates for commencement of specified activities:

- The prepaid wireless E911 fee (fee) is imposed per retail transaction effective January 1, 2015.

¹⁶ 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.

¹⁷ *Id.*

¹⁸ Section 365.172(8)(b), F.S.

- The monthly fee is applied to wireless, nonwireless, and prepaid wireless categories effective January 1, 2015.
- The fee may not be assessed on or collected from a provider before January 1, 2015.
- The fee is subject to remittance by retailers to the Department of Revenue (DOR) effective March 1, 2015. (Sellers may retain all moneys collected for the first two months to offset setup costs.)
- Each seller may retain 5 percent of the prepaid wireless E911 fees that are collected by the seller as a retailer collection allowance effective March 1, 2015.
- Each seller shall file a return and remit the fees collected the previous month to DOR on or before the 20th day of the month, beginning April 1, 2015.
- The E911 Board may adjust the rate of the fee no sooner than June 1, 2015.
- The effective date of the bill is July 1, 2014.

E911 Fees for Prepaid Wireless Service

The bill creates subsection (9) of section 365.172, F.S., to specify a mechanism for collection of the E911 fee on each retail purchase of prepaid wireless service from a seller. The bill defines prepaid wireless service:

“Prepaid wireless service” means a right to access wireless service that allows a caller to contact and interact with 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars, which units or dollars expire on a predetermined schedule or are decremented on a predetermined basis in exchange for the right to access wireless service.

Effective January 1, 2015, the E911 fee will be set at \$0.40 per month¹⁹ per service identifier and applied to prepaid wireless service for each retail transaction. If the fee rate is adjusted by the Board under the existing cap of \$0.50 (which may not occur sooner than June 1, 2015, and without a two-thirds vote of the total number of Board members), the Board must notify the Department of Revenue (DOR) of the adjusted rate and its effective date no less than 120 days before the effective date. In turn, DOR must provide notice of the adjusted fee rate and its effective date to each seller no less than 90 days before the effective date.

¹⁹ Except for nonwireless access line services in three counties that – via ordinance prior to 2007 – had a lower rate established. According to the Department of Management Services’ Legislative Bill Analysis for this bill, the nonwireless access line rate for Duval and Lee counties will be \$0.44 per month and Volusia County will be \$0.41 per month.

The bill requires the fee to be collected by the seller of the prepaid wireless service on each retail transaction²⁰ occurring in Florida. The amount of the fee must be separately stated or disclosed to the consumer. For purposes of collecting the fee, the bill provides that a retail transaction shall be treated as occurring in Florida if the retail transaction occurs in person at a seller's business location that is in the state. Further, the transaction will be deemed to have occurred in the county of that business location. When a transaction does not take place at a seller's business location but an item is shipped, the transaction will be treated as occurring in the county of the customer's shipping address. If an item is not shipped, the transaction will be treated as occurring in the county of the consumer's address or location associated with the consumer's mobile phone number. If a specific Florida county cannot be identified, it will be treated as "non-specific."²¹

The bill includes provisions designed to address the expense incurred by sellers to collect the E911 fee on prepaid wireless service. The bill requires sellers to begin collecting the fee on January 1, 2015, at a rate of \$0.40 per retail transaction, and be subject to remittance to DOR beginning on March 1, 2015. Sellers may retain all moneys collected for the first two months to offset setup costs. The bill allows sellers to retain five percent of the fees collected thereafter as a "retailer collection allowance."

The bill specifies the manner in which sellers must file returns and remit the E911 fees collected. On or before the 20th day of each month, beginning April 1, 2015, each seller must file a return and remit to DOR the fees it collected in the prior month.²² The bill allows a seller to remit the fees through an electronic transfer and to file its return through an electronic data exchange. If DOR has authorized the seller to file its sales and use tax return on a quarterly, semiannual, or annual basis, the seller may remit the E911 fees and file its return on or before the 20th day of the month following that reporting period. A seller that collects less than \$50 per month of E911 fees is permitted to file quarterly returns on or before the 20th day of the month following each quarterly period. If the seller is required to file a return for two or more business locations, the bill allows the seller to file a consolidated return, provided that the seller reports the E911 fees it has collected by county. No return is required if there are no fees to remit.

The bill specifies the information that must be provided in each E911 fee return filed with DOR. This information includes: the seller's name, tax identification numbers, business location and address; the county of the business location; the reporting period; the number of prepaid wireless services sold during the reporting period and the amount of E911 fees collected on those services, including the amount of any adjustments made to the fees collected; the amount of the retailer collection allowance deducted from the amount of fees collected; and the amount to be remitted to DOR.

The bill requires every seller of prepaid wireless service in Florida to register with DOR for each place of business, as required by existing laws regarding registration as a sales and use tax dealer. A separate application is required for each place of business. The bill provides that a valid certificate of registration issued by DOR for sales and use tax purposes is sufficient for these purposes, and there is no fee for registration for remittance of E911 fees.

The bill requires DOR to deposit the E911 fees it receives into the Audit and Warrant Clearing Trust Fund established in s. 215.199, F.S. The bill allows DOR to reimburse its direct costs of administering the collection and remittance of the fees by retaining up to 3.2 percent of the funds remitted to it. DOR must transfer all remaining funds into the Emergency Communications Number E911 System Fund on a monthly basis, on the 25th day of each month following the month of receipt. Except where provided differently, DOR is to administer, collect, and enforce the fee pursuant to the same procedures used in

²⁰ The bill defines "retail transaction" as "the purchase by a consumer from a seller of prepaid wireless service that may be applied to a single service identifier for use by the consumer." If a consumer makes a purchase of multiple prepaid wireless services in a single transaction, the bill provides that each individual prepaid wireless service shall be considered a separate retail transaction for purposes of calculating the applicable E911 fee. The bill also provides that a seller may elect not to apply the fee to a transaction in which a prepaid wireless device is sold for a single, nonitemized price with a prepaid wireless service of 10 minutes or less or \$5 or less.

²¹ E911 fee revenues derived from transactions designated as "non-specific" may be distributed as determined by the Board.

²² If the 20th day of the month is a Saturday, Sunday, or legal holiday, the deadline is extended until the next business day.

the administration, collection, and enforcement of the general state sales tax imposed under ch. 212, F.S., and is directed to apply the provisions of chapter 212 regarding authority to audit and make assessments, keep books and records, and determine interest and penalties on delinquent fees.²³

The bill also provides a nonrecurring appropriation of \$250,000 to DOR for the purposes of administering the collection and remittance of the E911 fees from prepaid wireless service in fiscal year 2014-2015. The bill provides for a recurring appropriation of \$190,713 from the Operating Trust Fund.

Distribution of E911 Funds

The bill establishes a new category in the E911 Fund for revenues derived from application of the E911 fee to prepaid wireless service. Of the moneys transferred into the E911 Fund and placed into this new category (i.e., the funds derived from the fee that remain after prepaid wireless sellers and DOR have withheld the amounts allowed by the bill to cover their implementation costs), the bill specifies the following distribution:

- 61 percent will be distributed each month to counties based on the total amount of fees reported and paid in each county;
- 35 percent will be retained by the Board to provide E911 grants to all counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment;
- Three percent will be 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; and
- One percent will be retained by the Board to cover the costs of managing, administering, and overseeing the E911 Fund.

The bill provides that E911 fee revenues derived from transactions designated as “non-specific” (i.e., where the appropriate county cannot be identified) may be distributed as determined by the Board.

The bill increases distributions from the wireless category to counties from 67 percent to 76 percent. The bill decreases the percentage of funds available from the wireless category for distribution to wireless providers from 30 percent to 20 percent and decreases distributions from the nonwireless category to counties from 97 percent to 96 percent.

The bill increases the percentage of funds available from both the wireless and nonwireless categories to be 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. Three percent of the funds in these categories will be available for these purposes, rather than the current two percent.

Emergency Communications Number E911 System Fund Distribution

	Wireless Percentage	Nonwireless Percentage	Prepaid Wireless Percentage
Counties	76	96	61
Providers (for E911 Service)	20		
Retained by Board	1	1	1
Rural Counties	3	3	3
E911 Grants			35
	100	100	100

The bill clarifies that any county that receives funds from the E911 Fund may not reduce, withhold, or allocate such funds (plus any interest accrued on such funds) for purposes other than covering the costs specified in statute. Further, the bill provides that the county’s annual financial audit must assure

²³ The provisions of estimated tax liability in s. 212(11)(1)(a), F.S. do not apply to the prepaid wireless E911 fee.

that all E911 fee revenues, interest, and E911 grant funding are used as specified in statute and as specified by the E911 Board's grant and special disbursement programs. The bill also requires counties to submit these financial audit reports to the Board.

The bill expands the list of authorized expenditures for which funds distributed from the E911 Fund may be used. The bill provides that Department of Health certification and recertification and training costs for 911 public safety communications, including dispatching, are functions of 911 services. In addition, it adds the following items to the list of authorized expenditures:

- Circuits;
- GIS system and software equipment and information displays;
- Salary and associated expenses for a county to employ technical system maintenance, database, and administration personnel; and
- Emergency medical, fire, and law enforcement prearrival instruction software, charts, and training costs.

Indemnification and Limitation of Liability

The bill applies existing indemnification and limitation of liability protections to sellers and providers of prepaid wireless service. These protections, which are substantially similar to existing provisions related to the provision of 911 or E911 service by other voice communications services, provide as follows:

- A provider or seller of prepaid wireless service is not liable for damages to any person resulting from or incurred in connection with providing or failing to provide 911 or E911 service or for identifying or failing to identify the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 911 or E911 service.
- A provider or seller of prepaid wireless service is not liable for damages to any person resulting from or incurred in connection with providing any lawful assistance to any investigative or law enforcement officer of the United States, any state, or any political subdivision of any state in connection with any lawful investigation or other law enforcement activity by such law enforcement officer.

Miscellaneous Provisions

The bill specifies that the amount of the E911 fee collected may not be included in the base for measuring any tax, fee, surcharge, or other charge imposed by the state, any political subdivision of the state, or any governmental agency.

The bill also provides that a local government may not levy any additional fee for the provision of E911 service.

The bill provides that the Board, when determining the funding provided in a state 911 grant application, must take into account information concerning the amount of carry-forward funds retained by the county from prior years. Such grants shall be limited by any county carry-forward funds in excess of the allowable 30 percent carry over, calculated on a 2-year basis.

The bill amends and creates definitions to conform to the substantive provisions of the bill. The bill also removes obsolete provisions from ss. 365.172 and 365.173, F.S., and amends cross-references.

B. SECTION DIRECTORY:

Section 1. Amends s. 365.172, F.S., relating to the emergency communications number E911 system.

Section 2. Amends s. 365.173, F.S., relating to the emergency communications number E911 system fund.

Section 3. Amends s. 401.465, F.S., conforming a cross-reference.

Section 4. Provides an appropriation to the Department of Revenue.

Section 5. Provides that, except as otherwise provided in the act, the act takes effect July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates that in FY 2014-15 the bill will have an impact on state trust funds of negative \$1.0 million and a positive \$3.2 million recurring in future years. The bill provides a nonrecurring appropriation of \$250,000 to the Department of Revenue (DOR) for first-year costs of implementing the bill. Once collections begin, DOR is authorized to retain an administrative charge of up to 3.2 percent of the funds remitted from prepaid wireless E911 fees to cover any remaining costs before transferring the remainder to the E911 Trust Fund. Amounts retained by DOR are estimated to be \$190,713 in FY 2014-15 and \$461,525 each year thereafter. After accounting for amounts retained by DOR the impact to the E911 Trust Fund should be negative \$1.2 million in FY 2014-15 and positive \$2.7 million recurring.²⁴

2. Expenditures:

Prior to adoption of the latest committee substitute, DOR estimated its costs to implement the bill as shown below:²⁵

Dept. of Revenue	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Recurring				
	\$0	\$192,302	\$461,525	\$461,525
Non-Recurring				
Expense	\$0	\$115,686	\$0	\$0
Contracted Services	\$0	\$132,725	\$0	\$0
Total non-recurring	\$0	\$248,411	\$0	\$0
TOTAL	\$0	\$440,713	\$461,525	\$461,525

A nonrecurring appropriation of \$250,000 is provided to DOR for FY 14-15 from General Revenue to offset implementation costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

²⁴ Conversation with House Finance & Tax staff, March 24, 2014.

²⁵ DOR estimates for implementation of the committee substitute for committee substitute were not available when this analysis was published.

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires retail sellers of prepaid wireless service to collect the E911 fee on such transactions (other than those involving service of 10 minutes or less or \$5 or less) and remit the proceeds to the Department of Revenue. For these sellers, this requirement imposes initial costs for system setup and ongoing costs for collections and remittance. To address these costs, the bill allows sellers to retain 100 percent of their E911 fee collections for the first two months of collections and allows sellers to retain five percent of their E911 fee collections thereafter.

Consumers of prepaid wireless service with access to the E911 system will pay an E911 fee on those services. The E911 fee currently paid by consumers of other voice communications services will be reduced from \$0.50 to \$0.40 per month in most counties.

D. FISCAL COMMENTS:

Revenues from collection of the E911 fee are distributed by the E911 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 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).²⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The 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:

None.

²⁶ 2012 Annual Report of the E911 Board.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 19, 2014, the Finance and Tax Subcommittee adopted an amendment reducing the nonrecurring appropriation to the Department of Revenue from \$500,000 to \$150,000.

On March 20, 2014, the Regulatory Affairs Committee adopted a strike-all amendment and reported the bill favorable with committee substitute. The amendment made the following changes to the bill:

- Provides the following dates for commencement of specified activities:
 - The prepaid wireless E911 fee (fee) is imposed per retail transaction effective January 1, 2015.
 - The monthly fee is applied to wireless, nonwireless, and prepaid wireless categories effective January 1, 2015.
 - The fee may not be assessed on or collected from a provider before January 1, 2015.
 - The fee is subject to remittance by retailers to the Department of Revenue (DOR) effective March 1, 2015.
 - Each seller may retain 5 percent of the prepaid wireless E911 fees that are collected by the seller as a retailer collection allowance effective March 1, 2015.
 - Each seller shall file a return and remit the fees collected the previous month to DOR on or before the 20th day of the month, beginning April 1, 2015.
 - The E911 Board may adjust the rate of the fee no sooner than June 1, 2015.
 - The effective date of the bill is July 1, 2014.
- The monthly prepaid wireless E911 fee is decreased from 46 cents to 40 cents.
- DOR is given authority and direction to administer, collect, and enforce the fee and is directed to apply the provisions of chapter 212 (regarding authority to audit and make assessments, keep books and records, and determine interest and penalties on delinquent fees).
- The nonrecurring appropriation amount is increased from \$150,000 to \$250,000 from GR and the recurring appropriation amount is decreased from \$290,713 to \$190,713 from the Operating Trust Fund to the DOR for administering the act.

This analysis reflects the changes in the latest committee substitute.