

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 441 E911 Systems

SPONSOR(S): Commerce Committee; Energy & Utilities Subcommittee; DuBose and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 536

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	13 Y, 0 N, As CS	Keating	Keating
2) Government Operations & Technology Appropriations Subcommittee	11 Y, 0 N	Keith	Topp
3) Commerce Committee	21 Y, 0 N, As CS	Keating	Hamon

SUMMARY ANALYSIS

Within the Enhanced 911 (E911) system, public safety answering points (PSAPs) are the public safety agencies that receive incoming 911 requests for assistance and dispatch appropriate public safety agencies to respond to the requests in accordance with the state E911 plan. Counties have limited capabilities to transfer 911 calls to other counties.

The Marjory Stoneman Douglas High School Public Safety Commission (Commission) reviewed the 911 and first responder dispatch communications related to the shootings that occurred at the school on February 14, 2018. Among other things, the Commission recommended that counties be required to develop and implement communications systems that allow direct radio communication between PSAPs and first responders outside the PSAP's normal service area to provide for more efficient dispatch of first responders.

Currently, 35 counties in Florida provide fully active and operational text-to-911 service. By the end of this calendar year, an additional 26 counties are expected to implement text-to-911 service. The remaining 6 counties are uncertain when text-to-911 service will be available, though these counties have indicated that they expect to implement text-to-911 service by 2022.

The bill requires the Technology Program (Office) within the Department of Management Services to develop a plan by February 1, 2020, to upgrade 911 PSAPs within the state to allow the transfer of an emergency call from one local, multijurisdictional, or regional E911 system to another local, multijurisdictional, or regional E911 system in the state. The bill specifies that this transfer capability should include voice, text message, image, video, caller identification information, location information, and additional standards-based 911 call information.

Separately, in response to the Commission's recommendations, the bill requires the development and implementation of communications systems that allow direct radio communication between each PSAP and first responders outside the PSAP's normal service area. This should allow for more efficient dispatch of first responders in response to 911 communications.

Finally, the bill requires each county to develop a plan to implement countywide text-to-911 service and, by January 1, 2022, to enact a system that allows for text-to-911 service.

The bill has an indeterminate fiscal impact to expenditures of state and local government. See *Fiscal Analysis & Economic Impact Statement*.

The bill provides an effective date of July 1, 2019.

The bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1. of the analysis.

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

STORAGE NAME: h0441e.COM

DATE: 4/18/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Governance of E911 Service

The Technology Program (Office) within the Department of Management Services (DMS) oversees the Enhanced 911 (E911) system in Florida.¹ The office is required by law to develop, maintain, and implement the statewide emergency communications E911 system plan. The plan must provide for:

- The public agency emergency communications requirements for each entity of local government² in the state.
- A system to meet specific local government requirements, which must include law enforcement, firefighting, and emergency medical services, and may include other emergency services such as poison control, suicide prevention, and emergency management services.
- Identification of the mutual aid agreements necessary to obtain an effective E911 system.
- A funding provision that identifies the cost to implement the E911 system.

The office is responsible for implementing and coordinating the plan, and must adopt any necessary rules and schedules related to public agencies³ implementing and coordinating the plan.

An "E911 Board," composed of eleven members, is established in law to administer funds derived from fees imposed on each user of voice communications service with a Florida billing address (place of primary use).⁴ The secretary of DMS designates the chair of the E911 Board. The Governor appoints five members who are county 911 coordinators and five members from the telecommunications industry. The E911 Board makes disbursements from the Emergency Communications Number E911 System Trust Fund to county governments and wireless providers in accordance with s. 365.173, F.S.⁵

Recent disbursements to county governments and wireless providers from the Emergency Communications Number E911 System Trust Fund are as follows:

Fiscal Year 2015-16⁶	Fiscal Year 2016-17⁷	Fiscal Year 2017-18⁸	Fiscal Year 2018-19⁹ (Through March 2019)
78,028,901	79,127,919	74,634,985	56,152,642

The secretary of DMS, or his or her designee, is the director of the statewide emergency communications number E911 system and is authorized to coordinate the activities of the system with state, county, local, and private agencies. The director must consult, cooperate, and coordinate with local law enforcement agencies.

¹ S. 365.171, F.S.

² "Local government" means any city, county, or political subdivision of the state and its agencies. S. 365.171(3)(b), F.S.

³ "Public agency" means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services. S. 365.171(3)(c), F.S.

⁴ S. 365.172, F.S.

⁵ *Id.*

⁶ 2016 Appropriation Ledger, Detail Report by Fund/Category

⁷ 2017 Appropriation Ledger, Detail Report by Fund/Category

⁸ 2018 Appropriation Ledger, Detail Report by Fund/Category

⁹ 2019 Appropriation Ledger, Detail Report by Fund/Category

Florida law permits the formation of multijurisdictional or regional E911 systems. Any system established pursuant to this law may include the jurisdiction, or any portion thereof, of more than one public agency.¹⁰

Receipt, Transfer, and Dispatch of E911 Communications

Within the E911 system, public safety answering points (PSAPs) are the public safety agencies¹¹ that receive incoming 911 requests for assistance and dispatch appropriate public safety agencies to respond to the requests in accordance with the state E911 plan.¹² As of January 2018, there were 256 primary, secondary, and backup PSAPs in Florida.¹³

According to DMS, counties have limited capabilities to transfer 911 calls to other counties and, where this capability exists, it is mostly limited to the transfer of caller identification information to adjacent counties.¹⁴ Multimedia (text, images, and video) cannot be transferred. Some counties have developed an IP network within their county and can transfer calls to other 911 answering points within their counties.¹⁵

The Marjory Stoneman Douglas High School Public Safety Commission (Commission) reviewed the 911 and first responder dispatch communications related to the shootings that occurred at the school on February 14, 2018.¹⁶ The Commission found that the City of Parkland's public safety services were provided through contracts with two separate agencies, the Broward County Sheriff's Office and Coral Springs/Parkland Fire Rescue, and that the decision to contract with both agencies for its police and fire/EMS services caused issues with inter-agency communications interoperability and 911 call routing. The Commission made the following recommendations to address these issues:

- Law enforcement agencies should be required to have communications interoperability with all other law enforcement agencies in their county. The methodology for accomplishing this is immaterial, but interoperability is essential.
- If a law enforcement agency asks another law enforcement agency for access to its primary dispatch radio channels, honoring the request should be mandatory.
- Law enforcement agencies should tactically train their personnel so they are familiar with all radio functionality.
- Florida law should require that all primary 911 call centers have the ability to directly communicate via radio with the first responder units for which they are receiving 911 calls without having to transfer calls.
- All public safety agencies should work toward consolidation of 911 call centers and eliminate the 911 call transfer process.
- School districts and law enforcement agencies should strive for radio interoperability.

¹⁰ S. 365.175(6), F.S.

¹¹ "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services. S. 365.172(3)(x), F.S.

¹² S. 365.172(3)(y), F.S.

¹³ Florida Department of Management Services, Agency Analysis of 2018 of HB 1057, p. 2 (Jan. 23, 2018).

¹⁴ Florida Department of Management Services, Agency Analysis of 2019 of HB 441, p. 2 (Jan. 28, 2019).

¹⁵ *Id.*

¹⁶ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report Submitted to the Governor, Speaker of the House of Representatives, and Senate President*, (January 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last accessed April 15, 2019). This subject is addressed in Chapter 7 on incident communications, interoperability and 911, radio, and computer-aided dispatch (CAD) systems, at pp. 215-230.

Text-to-911 Service

Text-to-911 service allows individuals to communicate with the E911 system via text message.¹⁷ Texting during an emergency could be helpful if you are deaf, hard of hearing, or have a speech disability, or if a voice call to 911 might otherwise be dangerous or impossible.¹⁸

Currently, 35 counties in Florida provide fully active and operational text-to-911 service. By the end of this calendar year, an additional 27 counties are expected to implement text-to-911 service. The remaining five counties have indicated an estimated completion date for text-to-911 service by the end of 2021.¹⁹

Effect of Proposed Changes

The bill requires each county to develop a plan to implement countywide text-to-911 service and, by January 1, 2022, to enact a system that allows for text-to-911 service. As noted above, 25 counties currently provide text-to-911 service, 26 counties expect to implement the service by the end of 2019, and the remaining 6 counties have indicated that they expect to implement the service by 2022.

Further, the bill requires the Office to develop a plan by February 1, 2020, to upgrade 911 PSAPs within the state to allow the transfer of an emergency call from one local, multijurisdictional, or regional E911 system to another local, multijurisdictional, or regional E911 system in the state. The bill specifies that this transfer capability should include voice, text message, image, video, caller identification information, location information, and additional standards-based 911 call information. In developing this plan, the Office is required to:

- Coordinate with public agencies to identify and resolve any technological or logistical issues;
- Identify or establish a system or clearinghouse for maintaining contact information for all E911 systems in the state; and
- For both a regionally phased and statewide approach, establish a date, considering any technological, logistical, financial, or other identified issues, by when all E911 systems in the state must be able to transfer emergency calls as described above.

Finally, to address recommendations of the Marjory Stoneman Douglas High School Public Safety Commission concerning inter-agency communications and 911 call routing, the bill provides for direct radio communication between each PSAP and first responders outside the PSAP's normal service area, for which the PSAP may reasonably receive 911 communications. These provisions should allow for more efficient dispatch of first responders in response to 911 communications. In particular, the bill:

- Requires local first responder agencies to ensure that each PSAP within a county is capable of directly notifying any first responder agency within that county of an emergency by radio;
- Requires each sheriff to facilitate the development and execution of written interlocal agreements between first responder agencies within a county to establish the protocols by which a PSAP will directly provide notice of an emergency by radio to the on-duty personnel of a first responder agency for which the PSAP does not provide primary dispatch functions;
- Requires, at the written request of a law enforcement agency head, that a law enforcement agency head in the same county or in an adjacent jurisdiction in another county must authorize the requesting agency to install the responding agency's primary dispatch channel or channels in the requesting agency's PSAP, dispatch center, or mobile or portable radios, except in the event of incompatible radio technologies;

¹⁷ Federal Communications Commission, *Text-to-911: Quick Facts & FAQs*, available at <https://www.fcc.gov/consumers/guides/text-911-quick-facts-faqs> (last accessed April 16, 2019).

¹⁸ *Id.*

¹⁹ Email from Joseph Valley, Legislative Analyst, Department of Management Services, RE: DMS Bill Analysis - HB 441 E911 Systems (Apr. 1, 2019).

- Requires training for applicable personnel of each first responder agency, PSAP, and dispatch center within each county concerning compliance with the procedures and protocols specified in each interlocal agreement; and
- Requires each sheriff, by January 1, 2020, to provide the Florida Department of Law Enforcement with a copy of each interlocal agreement made between first responder agencies in the county and written certification of the county's compliance with the bill's requirements.

The bill provides legislative findings that it fulfills important state interests because:

- A proper and legitimate state purpose is achieved when local government 911 public safety telecommunicators are able to transfer and receive transfers of emergency calls to and from other local, multijurisdictional, or regional E911 systems in the state; and
- A proper and legitimate state purpose is achieved when text-to-911 service is made available statewide to ensure that persons who cannot speak or whose safety may be compromised by speaking in an emergency situation can safely use the E911 system.
- A proper and legitimate state purpose is achieved when a PSAP that receives a 911 communication can directly communicate by radio with first responders and dispatchers within the surrounding area for which the PSAP would not otherwise provide dispatch service.

The bill provides an effective date of July 1, 2019.

B. SECTION DIRECTORY:

Section 1. Amends s. 365.172, F.S., relating to definitions.

Section 2. Creates s. 365.176, F.S., relating to the transfer of E911 calls between systems.

Section 3. Creates s. 365.179, F.S., relating to direct radio communications between 911 public safety answering points and first responders.

Section 4. Provides legislative findings that this Act fulfills an important state interest.

Section 5. Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The fiscal impact to expenditures of DMS is indeterminate at this time. The E911 Board may see an increase in requests from counties for funds to implement text-to-911 services by the deadline specified in the bill. According to DMS, a request for an increase in the E911 Board's spending authority may be needed to accommodate the increased funding requests. Additionally, DMS will incur costs associated with developing a plan to allow for the transfer of emergency calls between PSAP's in different regions and to implement a system or clearinghouse to maintain contact information for all E911 systems in the state.²⁰

²⁰ Florida Department of Management Services, Agency Analysis of 2019 of HB 441, p. 4 (Jan. 28, 2019).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The fiscal impact to expenditures of local governments are indeterminate at this time. The cost for counties to implement text-to-911 service implementation is unknown and will likely vary by county. However, all Florida counties have either fully implemented text-to-911 service or expect to implement text-to-911 service by the January 1, 2022, deadline established in the bill. Thus, it is not clear if the bill will require any county to incur expenses beyond those that the county has already planned to incur. Further, the cost for local governments, through their local first responder agencies, to develop and implement communications systems that allow direct radio communication between each PSAP and first responders outside the PSAP's normal service area is unknown and will likely vary by county.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The municipality/county mandates provision of article VII, section 18 of the Florida Constitution may apply because the bill requires counties to take actions that require the expenditure of money. These actions include implementation of text-to-911 service by a specified date and development and implementation of communications systems that allow direct radio communication between each PSAP and first responders outside the PSAP's normal service area. The bill does not appear to qualify for an exemption or exception.

If the bill does qualify as a mandate, the law must fulfill an important state interest, and final passage must be approved by two-thirds of the membership of each house of the Legislature. The bill provides a legislative finding that ensuring the availability of text-to-911 service in all counties fulfills an important state interest. The bill also provides a finding that an important state interest is served by the development and implementation of communications systems that allow direct radio communication between each PSAP and first responders outside the PSAP's normal service area.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, 2019, the Energy & Utilities Subcommittee adopted three amendments to the bill and reported the bill favorably as a committee substitute. The following changes were made to the bill:

- Corrected a technical error by assigning a previously unassigned statutory section number to a new statutory section created by the bill;
- Provided that an important state interest is served in protecting the public safety by ensuring that text-to-911 service is available in all counties of the state; and
- Required the development and implementation of communications systems that allow direct radio communication between each PSAP and first responders outside the PSAP's normal service area.

On April 18, 2019, the Commerce Committee adopted one amendment to the bill and reported the bill favorably as a committee substitute. The following changes were made to the bill:

- Clarified that certain communications requirements for each PSAP apply only if the PSAP may reasonably receive 911 calls for a primary first responder agency or within the areas served by a first responder agency.
- Provided that an important state interest is served when a PSAP that receives a 911 communication can directly communicate by radio with first responders and dispatchers within the surrounding area for which the PSAP would not otherwise provide dispatch service.

The staff analysis has been updated to reflect the committee substitute.