

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 745 Emergency Communications

SPONSOR(S): Commerce Committee and Energy, Communications & Cybersecurity Subcommittee, McFarland and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/CS/SB 1418

FINAL HOUSE FLOOR ACTION: 116 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/CS/HB 745 passed the House on May 3, 2023, as CS/CS/CS/SB 1418 as amended.

The Division of Telecommunications (Division) within the Department of Management Services (DMS) is the state entity responsible for developing, maintaining, planning, and implementing a statewide E911 system. The secretary of DMS, or his or her designee, acts as the director of the system and is authorized to coordinate the activities of the system with state, county, local, and private agencies. The system director also serves as chair of the state's E911 Board, an 11-member body that administers funds derived from fees imposed on each user of voice communications services in Florida.

To fund Florida's E911 system, voice communications services providers collect a fee from their customers on a service identifier basis (e.g., from each active phone line or number with access to the E911 system). All collected fees are deposited into the Emergency Communications Number E911 System Fund, which is segregated into three categories (wireless, prepaid wireless, and non-wireless) and distributed as provided by law to counties and wireless service providers.

The next progression in E911 systems is referred to as Next Generation 911 (NG911). Funds distributed by the E911 Board support routine, ongoing service and maintenance costs of equipment and networks, but do not cover all costs to upgrade systems and implement NG911 technologies.

The bill modifies the powers, duties, and composition of the E911 Board, which is renamed by the bill as the Emergency Communications Board (Board), and expands and clarifies the list of items that may be funded with disbursements of fee revenues. The bill modifies the statutory allocation of E911 fee revenues in the wireless category to more closely match the actual allocation approved by the Board and eliminates the small remaining allocation to wireless service providers. The bill requires the Division to develop a plan by December 30, 2023, to upgrade all 911 public safety answering points within the state to allow for interjurisdictional transfers of emergency calls by December 30, 2033, and provides requirements for the plan.

The bill does not appear to have a fiscal impact on the state and may have a minimal fiscal impact on local governments and the private sector. See Fiscal Analysis & Economic Impact Statement.

The bill was approved by the Governor on May 11, 2023, ch. 2023-55, L.O.F., and will become effective on July 1, 2023.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Since 1974, Florida law has designated the telephone number “911” as the state’s emergency communications number to provide rapid direct access to public safety agencies.¹ In 1999, the concept of “Enhanced 911” or “E911” service was established in Florida law to describe 911 service provided to wireless telephone users.² Today, under the Emergency Communications Number E911 Act,³ the term “E911,” as used in Florida law, refers more broadly to an enhanced 911 system or service that provides any user of voice communications services⁴ with 911 service. E911 service directs calls to appropriate public safety answering points (PSAPs)⁵ by selective routing based on the geographical location from which a 911 call originated and provides for automatic number and location identification.⁶

The next progression in E911 systems is referred to as Next Generation 911 (NG911). According to the E911 Board’s 2021 Annual Report, NG911 requires a total replacement of legacy 911 systems with Internet Protocol (IP) networks and core services. NG911 includes IP-based 911 call routing systems, geographic information systems, and management information systems to be implemented statewide with interconnectivity among systems and across jurisdictional boundaries. An NG911 call routing system is designed to handle voice, data, text and video on a standardized IP-based platform.⁷

Governance

The Division of Telecommunications (Division) within the Department of Management Service (DMS) is the state entity responsible for developing, maintaining, and implementing a statewide E911 system plan. The secretary of DMS or his or her designee acts as the director of the system and is authorized to coordinate the activities of the system with state, county, local, and private agencies. The system director must consult, cooperate, and coordinate with local law enforcement agencies.⁸

The system director also serves as chair of the state’s E911 Board, an 11-member body that administers funds derived from fees imposed on each user of voice communications services with a Florida billing address (place of primary use). The remaining 10 members are appointed by the Governor. Five members must be county 911 coordinators, including one from a rural county, one from a medium county, one from a large county, and two at-large representatives recommended by the Florida Association of Counties in consultation with the county 911 coordinators. The other five members represent the telecommunications industry, including three representatives of local exchange companies and two representatives of the wireless industry. Members are appointed to staggered 4-year terms, subject to a limit of two successive terms.⁹

Funding

¹ Ch. 74-357, L.O.F.

² See Ch. 99-367, L.O.F.

³ Ch. 2007-78, L.O.F.

⁴ S. 365.172, F.S., defines “voice communications services” as “two-way voice service, through the use of any technology, which actually provides access to E911 services, and includes communications services, as defined in s. 202.11, which actually provide access to E911 services and which are required to be included in the provision of E911 services pursuant to orders and rules adopted by the Federal Communications Commission. The term includes voice-over-Internet-protocol service. ...”

⁵ S. 365.172, F.S., defines a “public safety answering point” as “the public safety agency that receives incoming 911 requests for assistance and dispatches appropriate public safety agencies to respond to the requests in accordance with the state E911 plan.”

⁶ E911 service provided by a wireless provider is subject to orders and rules of the Federal Communications Commission. See s. 365.172(3)(h) and (t), F.S.

⁷ Florida Department of Management Services, *2021 E911 Board Annual Report*, at p. 9-10, available at https://www.dms.myflorida.com/content/download/155677/1033501/E911BoardAnnualReportFor20202021final_2.28.2022.pdf (last visited March 3, 2023).

⁸ S. 365.171(4) and (5), F.S.

⁹ S. 365.172(5), F.S.

To fund Florida's E911 system, voice communications services providers (providers) collect an E911 fee from their customers on a service identifier basis (e.g., from each active phone line or number with access to the E911 system). The fee is imposed upon local exchange services, prepaid and billed wireless services, and other voice communications services that have access to E911 service, such as Voice over Internet Protocol.¹⁰ Sellers of prepaid wireless services (sellers) must collect this fee from customers with each retail transaction in the state.¹¹ The fee is currently set at a uniform statewide rate of 40 cents per month for each service identifier.¹² The E911 Board is authorized to adjust the fee as necessary to ensure full recovery of the costs incurred by counties and wireless service providers to provide E911 service and to prevent over-recovery of those costs, subject to a cap of 50 cents per month for each service identifier.^{13,14}

All collected fees are deposited into the Emergency Communications Number E911 System Fund (Fund), which is segregated into three categories: wireless, prepaid wireless, and non-wireless.¹⁵ Three percent of the funds in each category is distributed by the E911 Board to rural counties to provide facilities and network and service enhancements and assistance for their 911 or E911 systems and for grants to rural counties to upgrade and replace E911 systems. Further, the E911 Board may retain no more than one percent of the funds from each category to cover its administrative costs. For Fiscal Year (FY) 2020-2021, the E911 Board distributed the remaining 96 percent of funds to counties and wireless providers as follows:¹⁶

- Wireless Category
 - 94.75 percent to counties for authorized expenditures and costs to comply with FCC requirements for E911 service (funds allocated by county based on total number of service identifiers in each county)
 - An additional 1 percent to rural county grants
 - 0.25 percent to wireless service providers for reimbursement of actual costs to provide 911 or E911 service and costs to comply with FCC requirements for E911 service¹⁷
- Prepaid Wireless Category
 - 61 percent to counties for authorized expenditures (funds allocated by county based on total amount of fees reported and paid in each county)
 - 35 percent for statewide grants awarded by the E911 Board¹⁸

¹⁰ S. 365.172(8), F.S.

¹¹ S. 365.172(9), F.S. Collection is optional for prepaid wireless service sales of 10 minutes or less or \$5 or less.

¹² S. 365.172(8), F.S. In counties that, before July 1, 2007, had adopted an ordinance or resolution establishing a fee less than 50 cents per month per line, the applicable rate may be higher than 40 cents per month, but any future changes must be consistent with the uniform statewide rate. Those counties are Duval (44 cents per month), Lee (44 cents per month), and Volusia (41 cents per month). Florida Department of Management Service, *supra* note 5, at 7.

¹³ *Id.*

¹⁴ The statutory fee cap of 50 cents per month has remained unchanged since its adoption in 1985. See Ch. 85-317, L.O.F.

¹⁵ S. 365.172(3)(k), (8)(d), and (9)(i); s. 365.173(1)(c), F.S. Each provider may retain 1 percent of collected fees as reimbursement for its administrative costs to bill, collect, and remit the fee. Each seller of prepaid wireless service may retain 5 percent of collected fees as a collection allowance. Fees collected from prepaid wireless service are remitted to the Department of Revenue, which may retain up to 3.2 percent of remitted fees to reimburse its direct costs to administer collection and remittance of the fees.

¹⁶ S. 365.173(2), F.S., specifies the allocation of these funds but authorizes the E911 Board to modify allocations if necessary to ensure full cost recovery or prevent over-recovery of costs incurred in the provision of E911 service. The allocations presented above are based on the E911 Board's 2021 Annual Report, *supra* note 6.

¹⁷ The E911 Board may use, as needed, undisbursed funds from the allotment to wireless service providers to provide grants to counties for purposes of upgrading E911 systems. S. 365.172(6)(a)3.b., F.S.

¹⁸ Grants awarded with these funds are prioritized as follows: first, for counties to upgrade or replace E911 systems; next, for counties to develop and maintain statewide 911 routing, geographic, and management information systems; last, for counties to develop and maintain next-generation 911 services and equipment. S. 365.173(h), F.S.

- Non-Wireless Category
 - 96 percent to counties for authorized expenditures (funds allocated by county based on total number of service identifiers in each county)

The E911 Board's 2021 Annual Report states that, for FY 2020-2021, the allocation from the wireless category to wireless service providers was decreased from 8 percent down to 0.25 percent due to a decrease in the need for reimbursements to those providers. As a result, the allocation to counties increased by 6.75 percent, and the remaining 1 percent was allocated to rural county grants.

Authorized expenditures include all costs directly attributable to the establishment or provision of E911 service and contracting for E911 services. Specifically, these costs include the acquisition, implementation, and maintenance of PSAP equipment and E911 service features, as defined in voice communications services providers' published schedules, or the acquisition, installation, and maintenance of other E911 equipment, including:

- Circuits
- Call answering equipment
- Call transfer equipment
- ANI or ALI controllers
- ANI or ALI displays
- Station instruments
- E911 telecommunications systems
- Visual call information and storage devices
- Recording equipment
- Telephone devices and other equipment for the hearing impaired used in the E911 system
- PSAP backup power systems
- Consoles
- Automatic call distributors, and interfaces, including hardware and software, for computer-aided dispatch (CAD) systems
- Integrated CAD systems for that portion of the systems used for E911 call taking
- GIS system and software equipment and information displays
- Network clocks
- Salary and associated expenses for E911 call takers for that portion of their time spent taking and transferring E911 calls, salary, and associated expenses for a county to employ a full-time equivalent E911 coordinator position and a full-time equivalent mapping or geographical data position, and technical system maintenance, database, and administration personnel for the portion of their time spent administrating the E911 system
- Emergency medical, fire, and law enforcement prearrival instruction software
- Charts and training costs
- Training costs for PSAP call takers, supervisors, and managers in the proper methods and techniques used in taking and transferring E911 calls
- Costs to train and educate PSAP employees regarding E911 service or E911 equipment, including fees collected by the Department of Health for the certification and recertification of 911 public safety telecommunicators as required under s. 401.465, F.S.
- Expenses required to develop and maintain all information, including ALI and ANI databases and other information source repositories, necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the E911 call-taking and transferring function
- Next-generation E911 network services, next-generation E911 database services, next-generation E911 equipment, and wireless E911 routing systems

For FY 2020-2021, the E911 Board disbursed a total of \$121.3 million. Of that amount, \$104.8 million was disbursed to counties, \$1.14 million was disbursed to wireless service providers, and \$2 million

was retained to cover the operation and administration of the E911 Board. The remaining \$13.36 million was disbursed to counties as grants and supplemental disbursements.¹⁹

Status of Statewide E911, NG-911, and Text-to-911 Services

All 67 counties in Florida maintain and upgrade non-wireless and wireless E911 systems. Funds distributed by the E911 Board support routine, ongoing service and maintenance costs of equipment and networks, but do not cover all costs to upgrade systems and implement NG911 technologies. In 2021, fee revenue, special disbursements, and grants funded 44 percent of counties' total expenses.²⁰

An early step toward NG911 is the provision of Text-to-911 service, which uses Short Message Service (SMS) to allow citizens who cannot hear or speak to gain access to 911 without the requirement of special equipment or subscription to relay services for the hearing and speech impaired. As of December 31, 2021, 85 percent of Florida counties (57 of 67), offered Text-to-911 service, with the remainder estimated to be completed in 2022.²¹

According to the E911 Board, some of the more progressive and financially capable counties in the state have already either started the NG911 planning for their counties or have begun the transition to NG-911 ready systems and networks without grant or supplemental funding sources. Some counties are taking advantage of E911 State Grant opportunities to initiate the NG911 transition.

Effect of the Bill

The bill modifies the powers, duties, and composition of the E911 Board, which is renamed as the Emergency Communications Board (Board), and expands the list of items that may be funded with E911 fee disbursements. The bill modifies the statutory allocation of E911 fee revenues in the wireless category to more closely match the actual allocation approved by the Board and eliminates the small remaining allocation to wireless service providers.

The bill amends the short title of s. 365.172, F.S., to reflect a move away from using the term "E911" in statute, by renaming the section the "Emergency Communications Act" (Act). The bill further reflects this change by replacing or striking language referencing "E911" throughout ss. 365.171-365.174, F.S., s. 365.177, F.S., and s. 212.05965, F.S.

The bill modifies the legislative intent of the Act. Per the changes in the bill, it is the intent of the Legislature that the Act:

- Establish and implement statewide emergency communications and response capabilities using modern technologies and methods;
- Provide funds to counties to pay certain costs of public safety and emergency response capabilities and costs incurred to purchase, upgrade, and maintain 911, computer aided dispatch, and interoperable radio communications systems;
- Levy a reasonable fee on users of voice communications services to accomplish these purposes;
- Provide for an Emergency Communications Board that is competitively and technologically neutral as to all communications services providers, not just voice communications services providers; and
- Ensure that the fee established by the Act for emergency communications systems is used exclusively by counties.

Purposes of the Board

¹⁹ Florida Department of Management Services, *supra* note 7, at 8.

²⁰ *Id.*, at 9, 15.

²¹ *Id.*

The bill states that the Board, with oversight by the Division of Telecommunications (Division) within DMS, is established to:

- Promote interoperability between PSAPs by providing guidance and direction to counties and state agencies that operate 911 centers for the deployment of emergency communications infrastructure and the handling of emergency communications information, such as voice, text, data, and images, from receipt at a PSAP to dispatching to responders;
- Establish and administer allocations from the Fund dedicated to investing in public safety communications and technology for 911; and
- Provide technical assistance and guidance to rural counties as needed.

The bill specifies that the public safety funding administered by the Board is not limited to, but must focus on:

- NG911;²²
- Emergency Services IP Network (ESInet);
- CAD;²³
- PSAP technology to interface with Land Mobile Radio (LMR), smart city technology,²⁴ and In-Building Coverage;
- Emergency communications broadband networks; and
- Cybersecurity.

Composition of the Board

The bill revises the structure of the Board, by reducing the number of Board members from eleven to nine, one of whom must be the system director. The remaining eight members of the Board must be Florida residents and appointed by the Governor. Four of those members must be county 911 coordinators, with consideration given to rural, medium, and large counties. The remaining four members must represent fields including, but not limited to, law enforcement, fire response, emergency medical services, 911 coordination, public safety dispatch, and telecommunications. The bill provides that the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Association of Counties, in consultation with the county 911 coordinators, may provide recommendations to the Governor for the appointment of board members.

The bill staggers the terms for which the initial Board members may be appointed and provides that current 911 coordinators on the Board will complete their terms.

Authority and Duties of the Board

Under the bill, the Board is given the additional responsibility of advocating and developing policy recommendations to ensure the interoperability of and connectivity between public safety communication systems within the state, including recommendations related to:

²² The bill defines “Next Generation 911” or “NG911” as an Internet Protocol (IP) -based system composed of:

- Managed Emergency Services IP Networks (ESInet);
- Functional elements (applications); and
- Databases that replicate traditional E911 features and functions and provide additional capabilities.

The bill further provides that the NG911 system is “designed to provide access to emergency services from all connected communications sources and provide multimedia data capabilities for PSAPs and other emergency service organizations.”

²³ The bill defines “Computer Aided Dispatch” or “CAD” as “a computerized system for entering, tracking, dispatching, and resolving requests for public safety services.”

²⁴ Smart city technology refers to technology, including sensors, that a city uses to collect data for resource management; examples include: smart parking spots, water conservation technology, smart traffic system management, and adaptable buildings. *Smart City Technologies That Could Soon Change The Way We Live And Work*, Forbes (Jul. 27, 2022), <https://www.forbes.com/sites/forbestechcouncil/2022/07/27/smart-city-technologies-that-could-soon-change-the-way-we-live-and-work/?sh=1a2c97371be0> (last visited Apr. 5, 2023).

- Call routing accuracy and timeliness of response;
- Improved interagency communication and situational awareness;
- Improved interagency connectivity;
- Improved response times;
- Maximized use of emerging technologies;
- Improved lifecycle management of the systems, equipment, and services that enable public safety officials to share information securely;
- Governance, policy, and procedure across public safety agencies; and
- Establishment of resilient and secure emergency communication systems to reduce cybersecurity threats and vulnerabilities.

Under the bill, the Board is also responsible for administering the Public Safety Emergency Communications Systems Fee (formerly the “E911” fee), including receiving revenues, distributing portions of the revenues, accounting for the moneys maintained in the fund, and providing annual reports for review and submission to the Governor and the Legislature.

The bill also authorizes the Board to create subcommittees, as needed, to advise the Board.

The bill specifies that the Board may establish a schedule for implementing NG911 systems, public radio communications systems, and other public safety radio communications improvements. The bill authorizes the Board to prioritize disbursement of revenues pursuant to this schedule to implement 911 services in the most efficient and cost-effective manner.

The bill requires that, for statewide grants made available by the Board, the Board must provide 90 days’ written notice to all counties and publish electronically an approved application process. The bill provides means by which applications must be prioritized, which shall be based on the availability of grant funds, current system life expectancy, and system replacement needs. The board must, within its authority, ensure that county recipients of the funds use the funds only for the purpose for which they were provided. If the Board determines that the funds were not used for the purpose for which they were provided, the Board may, within its authority, secure county repayment of such funds.

Under the bill, the Division will administer the disbursement of funds to counties and provide a monthly report to the Board. Accordingly, the bill eliminates the current requirement that the Board meet monthly and replaces it with a requirement that the Board meet in the most efficient and cost-effective manner.

Under the current law, the Board must establish a committee to review requests for proposals for purposes of retaining an independent accounting firm. The bill removes the requirement that the committee include one member of the Board that is a county 911 coordinator and one member of the Board that represents a voice communications services providers.

Public Safety Emergency Communications Systems Fee

The bill renames the E911 Fee as the Public Safety Emergency Communications Systems Fee (Fee). The bill makes it a uniform, statewide fee, removing an exception for counties that, before July 1, 2007, had adopted a different fee.²⁵

The bill also removes a requirement that when the Board sets allocation percentages for distribution of Fee revenues or contemplates any adjustments to the Fee, it must consider revenues currently allocated for wireless service provider costs for implementing E911 service and projected costs for implementing E911 service.

Authorized Expenditures

²⁵ See *Fiscal Analysis & Economic Impact Statement* for additional information.

For purposes of expenditures of Fee revenues, the bill states that emergency communications and 911 service include functions relating to the receipt and transfer of requests for emergency assistance. The bill also updates the list of costs that are eligible for expenditure of Fee revenues and requires that these costs be attributable to emergency communications equipment and services related to a primary or secondary PSAP. The bill adds the following to the list of eligible costs:

- NG911 telecommunications systems;
- Emergency Services IP Networks;
- Interfaces, including hardware and software, for public safety Land Mobile Radio systems (LMR) and radios consoles that provide two-way communication with responders, and in-building coverage;
- Cybersecurity, including hardware, software, and services;
- Salary and associated expenses for emergency dispatchers;
- Training costs for dispatchers in proper methods and techniques used in taking and transferring 911 calls;
- Costs to educate the public regarding 911 and radio service or NG911 equipment; and
- Expenses required to develop and maintain all information, including call taker access to smart city technology data, public safety broadband networks, and other information directly relevant to the processing of a request for emergency assistance.

The bill provides that changes, modifications, or upgrades to emergency communications systems or services must be made in cooperation and coordination with the head of each public safety agency, or their designee, served by the primary PSAP in each county. The bill further clarifies that Fee revenues may not be used to cover any capital or operational costs related to responders dispatched to an emergency or to cover costs for utilities.

Distributions from the Emergency Communications Trust Fund

The bill renames the Emergency Communications Number E911 System Fund as the Emergency Communications Trust Fund (Trust Fund). The bill modifies the statutory allocation of funds in the wireless category of the Trust Fund by providing that:

- Ninety-five percent of the funds shall be distributed each month to counties, based on the total number of service identifiers in each county and shall be used exclusively for payment of authorized expenditures;
- An additional one percent of the funds shall be used to make monthly distributions to rural counties for certain purposes and for grants to rural counties to upgrade and replace emergency communications systems.
- No funds will be distributed to wireless providers.

The bill authorizes the Board, in accordance with its rules, to withhold future distribution of grant funds or request a return of all or a portion of funds previously awarded based on findings from financial audits conducted under current law²⁶ that address, among other things, the use of the Trust Fund.

Lastly, the bill provides that the Division shall develop a new plan by December 30, 2023, to upgrade all 911 public safety answering points 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 by December 30, 2033. The bill provides that the plan must:

- Prioritize the upgrade of PSAPs based on the population served by each PSAP, the capability of a jurisdiction or region to modernize PSAPs beyond legacy 911 infrastructure, and the ability of a jurisdiction or region to address interoperability between PSAPs; and
- Identify and address the projected costs of providing these transfer capabilities and project the ability of each county to meet operational costs based on disbursement of non-grant funds.

The bill provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Three counties (Duval, Lee, and Volusia) will see a slight reduction in fee revenues from their local exchange carriers (LECs). Currently Duval and Lee receive \$0.44 and Volusia \$0.41 per subscriber from their LECs and \$0.40 from VoIP, wireless, and prepaid providers. All other counties receive \$0.40 across the board. This legislation will bring Duval, Lee, and Volusia counties into alignment

²⁶ Section 218.39, F.S., requires annual financial audits of counties and other local government entities.

with the rest of the state. The decrease in revenue for these counties will be mitigated by the increase of wireless and VoIP subscribers as LEC subscribers upgrade to newer technology.²⁷

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Wireless carriers may see a small decrease in funds used for 911 implementation.

D. FISCAL COMMENTS:

None.

²⁷ Florida Department of Management Services, Agency Analysis of 2023 HB 745, p. 5, (March 15, 2023).