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DATE: February 27, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMITTEE ON FISCAL POLICY AND RESOURCES
ANALYSIS**

BILL #: HB 1263

RELATING TO: Emergency Telephone service

SPONSOR(S): Representative Bean

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) UTILITIES & TELECOMMUNICATIONS YEAS 15 NAYS 0
 - (2) COMMITTEE ON FISCAL POLICY AND RESOURCES YEAS 8 NAYS 6
 - (3) READY INFRASTRUCTURE
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The State of Florida has funded a 911 emergency program for wireline telephone service by a fee not to exceed 50 cents on the subscriber's telephone bill. The 911 system for wireless telephones is still being developed and it is also funded by a 50-cent fee on the wireless subscriber's bill.

The bill provides that a portion of the total 911 fee be distributed to the statewide 911 system director who is the Director of the State Technology Office. It provides a definition of "statewide programs" to include: administration and support of the enhanced 911 (E911) board, staff support, assistance to rural counties, research and development, database pilot projects, and providing funds to encourage counties to increase deployment of advanced 911 features. The bill increases the duties of the board to develop, manage and administer statewide programs to promote the efficient, effective, and timely implementation of statewide E911 system.

It changes the methods that the board, after July 1, 2003, can use to secure the services of an independent accounting firm. Services can be obtained by invitation to bid, request for proposals, invitation to negotiate, or professional contracts already established or the board may hire professional accounting staff. If staff is hired, the board is required to hire an independent accounting firm to audit the board's annual financial status and provide a copy of the audit to the Auditor General.

The bill provides that the wireless E911 fee shall be imposed on each customer whose place of primary use is in this state. It changes the provider's monthly report on the number of wireless subscribers to not more than twice a year.

The bill changes the distribution of the E911 system fund --43.75 percent of the money is distributed to the counties, based on population. Three-fourths of 1 percent of the money is distributed to the State Technology Office. 53.5 percent of the money is distributed to the providers to reimburse for actual costs of the 911 and E911 service and 2 percent of wireless providers' portion is to be used for statewide programs (**summary continued on page 2**).

Two percent of the money is allocated to statewide programs instead of directly to rural counties.

The State Technology Office will receive \$623,000 from distribution of funds under this bill. County and providers portions of the distribution will be reduced by \$535,000 and \$88,000, respectively.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The statewide emergency telephone number "911" plan for the wireline telephone system is established by section 365.171, Florida Statutes. The wireless enhanced or "E911" system is established by section 365.172, Florida Statutes, and the disbursement of the funds for the "E911" system is provided in section 365.173, Florida Statutes. The enhanced 911 system for wireless telephones is still being developed.

Following approval by referendum or approval by a majority vote of the board of county commissioners, a county may impose a 911 fee to be paid by local exchange subscribers in the county under section 365.171(13), Florida Statutes. The proceeds are to be used only for 911 expenditures. The fee may not exceed 50 cents per line up to a maximum of 25 lines. The fees collected by the telephone company are to be returned to the county less a one percent administrative fee to be retained by the telephone company.

Section 365.172, Florida Statutes, is cited as the "Wireless Emergency Communications Act." A Wireless 911 Board consisting of seven members administers the enhanced 911 system or E911 system. The Director of the State Technology Office is the permanent chair and the Governor appoints the remaining six members - three county 911 administrators and three members representing separate wireless providers.

Under section 365.172(8), Florida Statutes, each provider of wireless services is required to collect a fee of 50 cents on each service subscriber who has a service number that has a billing address in Florida. All revenues derived from the E911 fee are paid into the State Treasury and are accounted for in the special fund called the Wireless Emergency Telephone System Fund.

The fee for E911 service is distributed as provided in section 365.173(2), Florida Statutes. Forty-four percent of the money collected are distributed each month to a county based upon the total number of wireless subscribers with a billing address in that county. A county may carry forward up to 30 percent of the total funds for up to 3 successive calendar years.

Fifty-four percent is distributed to the wireless providers, upon sworn invoices submitted to the board, to pay for the costs incurred in providing 911 and E911 service and up to 2 percent of that

portion is retained by the board to be applied to costs and expenses incurred in overseeing the fund.

Two percent is distributed to rural counties for providing facilities, network and service enhancements, and assistance for 911 and E911 systems in those counties.

The Auditor General is required to annually audit the fund to ensure that money in the fund are being managed in accordance with sections 365.172 and 365.173, Florida Statutes.

The Wireless 911 Board established by section 365.172(5), Florida Statutes, may reduce the fee distribution formula or the amount of the fee or both after July 1, 2001 to ensure full cost recovery or prevent over-recovery of costs.

The Federal Communications Commission (FCC) requires wireless providers to implement E911 service in two phases. Phase I allows a 911 operator to identify a caller's telephone number and the location and coverage area of the cellular antenna that transmits the call. According to the Auditor General's Audit of the fund, Report No. 02-114, the board has indicated that 42 counties have requested Phase I service and 33 counties have implemented Phase I service.

Phase II service allows a 911 operator to identify the caller's telephone number and the location of the caller within 50 to 100 meters. Providers were originally to begin implementation of the service by October 1, 2001, but they have not been able to meet that deadline. In September and October 2001, the FCC granted the six major providers additional time to implement Phase II. Now Phase II must be fully implemented by December 31, 2005, according to the State Technology Office.

The board is required, under section 365.172(7), Florida Statutes, to issue a request for proposals under chapter 287, Florida Statutes, to retain an independent accounting firm. The accounting firm is charged with performing all material administrative and accounting functions that are required to administer the E911 fee.

Subsection (9) of section 365.172, Florida Statutes, requires each provider to collect the fee from the subscribers and deliver the revenues to the board within 60 days after the end of the month that the fee was billed along with a monthly report of the number of billing addresses for wireless subscribers in the county.

C. EFFECT OF PROPOSED CHANGES:

The bill provides that three-fourths of one percent of the total 911 fee, both the fee for wireline 911 collected under section 365.171 and the wireless E911 fee collected under section 365.172, Florida Statutes, is to be distributed to the State Technology Office.

The bill provides a definition of "statewide programs" to include: administration and support of the E911 board, staff support for statewide E911 service from the State Technology Office, assistance to rural counties for implementing or operating E911 service, and research and development to identify the most cost-effective and efficient alternatives for implementing enhancements to 911 systems. The bill also includes providing database pilot projects to: improve the accuracy of the information in the database, reduce maintenance of the database, and incorporate new application capability into the database. Finally, the bill will provide a source of funds to encourage counties to increase deployment of advanced 911 features.

The bill increases the duties of the board to develop, manage and administer statewide programs to promote the efficient, effective, and timely implementation of a statewide-enhanced 911 system.

It allows the board, after July 1, 2003, to secure the services of an independent accounting firm by invitation to bid, request for proposals, invitation to negotiate, or professional contracts already established by the Division of Purchasing, or the board may hire professional accounting staff to these purposes. If staff is hired, the board is required to hire an independent accounting firm to audit the board's annual financial status and provide a copy of the audit to the Auditor General.

The bill provides that the wireless E911 fees shall be imposed on each customer whose place of primary use is in this state. The fee is to be administered in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. ss. 116-126. The terms in 4 U.S.C. s. 124 shall apply to this section. The fee is also to be used to provide support for the functions of the statewide 911-system director who is the State Technology Director or a designee.

Each provider is required to deliver, at the board's request, but not more than twice a year, a monthly report of the number of wireless subscribers whose place of primary use is in each county.

The distribution of the money in the Wireless Emergency Telephone System Fund is amended to provide that 43.75 percent of the money is distributed to the counties, based on population as reported by the Association of Counties on June 30 of each year. According to the Association of Counties and the State Technology Office, the change in funding from the "total number of wireless subscriber billing addresses" to "population" will generally reduce the funding to the larger counties and increase the funding to the smaller counties.

Three-fourths of 1 percent or .75 percent of the money is distributed to the State Technology Office. 53.5 percent of the money is distributed to the providers to reimburse for actual costs of the 911 and E911 service. Two percent of this money that was allocated to the wireless providers is required to be applied to the costs and expenses incurred in administering the statewide programs by the Wireless 911 Board and the State Technology Office. The provision that any funds retained during the calendar for administrative costs and not disbursed by March 31 of the following years were to be disbursed to the wireless providers is stricken.

Finally, 2 percent of the money is allocated to statewide programs instead of directly to rural counties for providing facilities, network, and service enhancements for 911 and E911 systems and for loans and grants to rural counties for upgrading 911 systems.

D. SECTION-BY-SECTION ANALYSIS:

Please see Present Situation and Effect of Proposed Changes sections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	2001-02	2002-03
State Technology Office	\$623,000	\$623,000
2. <u>Expenditures:</u>		
None.		

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. <u>Revenues:</u>	2001-02	2002-03
County 911 Funding	(\$535,000)	(\$535,000)
2. <u>Expenditures:</u>		
None.		

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Two percent or \$88,000 per year of the wireless providers share of the E911 fee will be transferred to the State Technology Office.

D. FISCAL COMMENTS:

The total of \$623,000 is received from the following funds according to the State Technology Office:

\$535,000 from county funds
\$ 88,000 from provider's funds
\$623,000 total

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Auditor General made two recommendations for changes in the law in the Operational Audit of the Wireless Emergency Telephone System Fund, State Technology Office, Report No. 02-114. The Auditor General recommended that:

The Legislature should consider amending Section 365.173, Florida Statutes, to require the counties to establish a fund to be used exclusively to account for the receipt and expenditure of E911 fee revenues.

The Legislature should consider amending Section 365.173, Florida Statutes, to address the disposition of E911 fee revenues received by counties when those revenues are not used in the current calendar year or when carried forward and not used within three successive calendar years.

The Association of Counties opposes the redistribution of the county funds to operate the State Technology Office.

The bill provides that the monthly report on the number of wireless subscribers be delivered not more than twice a year. "Monthly" should be stricken to conform to the new reporting cycle.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Utilities and Telecommunications adopted 3 amendments.

Amendment #1 by Representative Bean removes redundant auditing language upon the suggestion of the Auditor General's Office.

Amendment #2 by Representative Bean deletes the term "monthly" to clarify the reporting requirements in the bill.

Amendment #3 by Representative Bean implements the Auditor General's recommendations in the latest Audit Report No. 02-114. It requires the counties to establish a fund to be used exclusively to account for receipts and expenditures of E911 revenues. It also allows the counties to carry these funds forward without a time limit for the use of these funds.

VI. SIGNATURES:

COMMITTEE ON UTILITIES & TELECOMMUNICATIONS:

Prepared by:

Staff Director:

Patrick L. "Booter" Imhof

Patrick L. "Booter" Imhof

AS REVISED BY THE COMMITTEE ON COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Adam Shamy

Lynne Overton