

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2198  
 SPONSOR: Comprehensive Planning, Local and Military Affairs and Senator Mitchell  
 SUBJECT: Emergency Telephone Number "911"  
 DATE: February 28, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u>Vaccaro</u>	<u>Caldwell</u>	<u>RI</u>	<u>Favorable</u>
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	<u>AGG</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

## I. Summary:

This CS revises the distribution of "911" and "E911" emergency telephone fee proceeds to provide funding to support the functions of the statewide 911 system director and the Wireless 911 Board; allocates fee proceeds to fund "statewide programs" administered by the Wireless 911 Board; and revises the duties of the Wireless 911 Board.

This CS amends the following sections of the Florida Statutes: 365.171, 365.172 and 365.173.

## II. Present Situation:

### The Florida Emergency Telephone Act

Section 365.171, F.S., establishes the statewide emergency telephone number "911" plan for the wire-line telephone system. Subsection (5) designates the director of the State Technology Office (STO) or his or her designee as the director of the statewide emergency telephone number "911" system, and authorizes that person to coordinate the activities of the system with state, county, local, and private agencies. The director may employ not less than five persons, three of whom will be at the professional level, one at the secretarial level, and one to fill a fiscal position, to carry out the responsibilities of the office. The STO reports that at the present time, there is no dedicated funding source to support the functions of the statewide 911 system director.

Subsection (13) authorizes the counties to impose, either by referendum or approval by a majority vote of the board of county commissioners, a 911 fee to be paid by local exchange subscribers in the county. Fee proceeds may only be used for 911 system 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. All counties currently levy the 911 fee.

### **The Wireless Emergency Communications Act**

Section 365.172, F.S., created the Wireless Emergency Communications Act to:

- establish and implement a comprehensive statewide emergency telephone number system that will provide wireless telephone users with rapid direct access to public safety agencies by dialing the telephone number "911;"
- provide funds to local governments to pay the cost of installing and operating wireless 911 systems and to reimburse wireless telephone service providers for costs incurred to provide 911 or enhanced 911 services; and
- levy a reasonable fee on subscribers of wireless telephone service to accomplish these purposes.

Subsection (5) provides for a Wireless 911 Board (board) to implement a statewide enhanced 911 ("E911") system for wireless telephone users. The board is composed of seven members: one member is designated by the Director of the STO and he/she is Chair of the Board; three members are County 911 Coordinators and are appointed by the Governor; and three members are from the wireless telecommunications industry and are appointed by the Governor. The board's primary function is to administer the funds derived from a \$.50 monthly fee on each wireless phone number assigned to persons with a Florida billing address.

Subsection (7) requires the board to issue a request for proposals to retain an independent accounting firm to perform all material administrative and accounting functions that are required to administer the E911 fee.

Subsection (8) requires each wireless service provider to collect a monthly fee from each service subscriber who has a service number that has a billing address within this state. The fee is 50 cents per month per each service number, and must be imposed uniformly throughout the state.

Subsection (9) requires each provider, as a part of its monthly billing process, to collect the fee and to deliver the fee proceeds to the board within 60 days after the end of the month in which the fee was billed, together with a monthly report of the number of billing addresses of wireless subscribers in each county. The board is authorized to waive the monthly submission and reporting requirement and allow a quarterly submission and reporting if the provider demonstrates that such waiver is necessary and justified.

Section 365.173, F.S., requires the fee proceeds be paid into the State Treasury on or before the 15th day of each month, and deposited into the Wireless Emergency Telephone System Fund.

The board is required to allocate the funds as follows:

- 44% is distributed each month to counties for purposes of providing 911 or E911 service (payments are based on the number of wireless subscribers in each county); counties may carry forward up to 30 percent of the total funds for up to 3 successive calendar years;

- 54% is distributed to wireless service providers in response to sworn invoices for the actual costs incurred in providing E911 service (up to 2% of the funds allocated to providers must be retained by the board for administrative and operational purposes); and
- 2% is used to provide extra assistance to rural counties for providing 911 or E911 service.

The board reports that a total of \$24.4 million was disbursed from the trust fund in 2001:

- \$21.3 million to all counties;
- \$315,662 to six rural counties;
- \$2.5 to wireless service providers; and
- \$307,477 to the board to pay for board expenses.

### **FCC Requirements**

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. The board reports that fifty-four of the 67 counties in Florida have officially requested Phase I service from the wireless service providers operating in their county, and 50 counties have implemented Phase I service by one or more wireless service providers.

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. The board reports that there are two fundamental technologies that have been developed for locating the wireless telephone that dials 911 and both have some limitations that affect accuracy. One is a network-based system that involves the positioning of special sensors at the tower sites. This technology requires that the 911 call be certified by multiple cell sites in order to determine position. The other technology is a handset-based system similar to that used in the Global Positioning System (GPS) satellite receivers. This technology may provide limited reception inside vehicles and buildings without special antennas. A third alternative being developed is Assisted-GPS which combines the two aforementioned technologies.

Wireless service providers were originally to begin implementation of Phase II 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 until December 31, 2005 to fully implement Phase II. The board reports that 14 counties have requested Phase II Wireless Enhanced 911 Service.

### **Wireless 911 Board Recommendations for 2002**

For 2002, the board made four general legislative recommendations, to include:

- Change the current billing address based fee proceed distribution formula to a population-based distribution formula;
- Combine the rural county grant funds with funds allocated for board administration and operations into a "statewide programs" fund, which would be used to fund administration and operations of the board and a variety of programs administered by the board;
- Allow the board to retain staff to accomplish some of the administrative and accounting tasks of the board; and

- Provide a dedicated funding source to fund the directors office for the statewide emergency telephone number “911” system.

These recommendations have been included in SB 2198.

### III. Effect of Proposed Changes:

**Section 1** amends s. 365.171(13), F.S., to require that 0.75 % of the 911 fee for wire-line telephones be distributed to the STO to fund the statewide 911 system director functions. This will reduce the counties portion of the fee proceeds from 99% to 98.25%.

**Section 2** amends s. 365.172(3), F.S., to add a definition of “statewide programs,” which includes administration and support of the E911 board; staff support for statewide E911 service from the STO; 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 definition also includes providing pilot projects to improve the accuracy of the information in the 911 ALI (Automated Location Identification) database; to reduce the cost of database maintenance and incorporate new application capability into the database; and to provide a source of funds to encourage counties and providers to increase deployment of advanced 911 features.

Subsection (5) is amended to increase the duties of the board, to include the development, management and administration of “statewide programs” to promote the efficient, effective, and timely implementation of a statewide-enhanced 911 service.

Subsection (6) is amended to re-designate a reference to s. 365.173(2), F.S., which is amended in section 3 of the bill.

Subsection (7) is amended to create paragraph (c), which allows the board, after July 1, 2003, to obtain the services of an independent accounting firm by invitation to bid, request for proposal, invitation to negotiate, or professional contracts already established by the Division of Purchasing of the Department of Management Services for certified public accounting firms, or the board may hire professional accounting staff to perform all material administrative and accounting tasks and functions required for administering the E911 fee.

Paragraph (8)(a) is amended to specify that the E911 fee is to be imposed on each “customer whose place of primary use is within this state,” rather than on each “service subscriber who has a service number that has a billing address” within this state. This change in the fee base is required by the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. ss. 116-126. While revenue projections are inconclusive, the STO estimates this change will be revenue neutral.

A new subparagraph 2. is created to provide that the fee is to “be administered in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. ss. 116-126,” and the terms set forth in 4 U.S.C. s. 124 are to apply to this section. The STO reports that this provision was added to insure consistency with the federal law.

Paragraph (8)(b) is amended to expand the uses of the E911 fee to include “to provide support for the functions of the statewide 911 system director as defined in s. 365.171(5).”

Subsection (9) is amended to delete the requirement that wireless providers submit a monthly report of the number of billing addresses of wireless subscribers, and require instead that the board may require the submission of a report of the number of wireless subscribers whose place of primary use is in each county. However, the board may require such report no more than twice a year.

Subsection (10) is amended to re-designate a reference to s. 365.173(2), F.S., which is amended in section 3 of the bill.

**Section 3** amends s. 365.173(2), F.S., to require that 0.75% of the E911 fee proceeds be used to support the functions of the statewide 911 system director. Paragraph (a) is amended to provide that 43.75% of the money be distributed to the counties, based on population as reported by the Florida Association of Counties (FAC) on June 30 of each year. Current law requires that counties get 44% of the funds, based on the “total number of wireless subscriber billing addresses in each county.” The STO reports that the current reliance on the “billing address” distribution formula has been difficult for many of the carriers and an enormous administrative burden on all.” While the STO states that this change in the distribution formula will adversely impact some urban counties, the impact is estimated to be insignificant.

In response to the Auditor General’s recommendations, paragraph (2)(a) is amended to require that counties establish a fund to be used exclusively to account for the receipt and expenditure of E911 fee revenues, and to allow counties to carry forward indefinitely unexpended E911 fee revenues.

Paragraph (b) is created to require that 0.75% of the fee proceeds be distributed to the STO to support the functions of the statewide 911 system director.

Paragraph (b) is re-designated as (c) and is amended to require that 53.5%, rather than 54%, of the fee proceeds be distributed to the wireless providers as reimbursement for actual costs of the 911 and E911 service. In addition, 2%, rather than “up to 2 percent,” of the 53.5% fee proceeds will continue to be allocated to the board and to the STO to defray the costs and expenses incurred in administering the statewide programs. The provision that requires 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.

Paragraph (c) is re-designated as (d), and is amended to require that the 2% of the fee proceeds currently sent 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 instead be allocated to “statewide programs” administered by the board.

**Section 4** provides that the act will take effect October 1, 2002.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

This CS will shift the distribution of 911 wire-line and wireless fee proceeds from the counties and service providers to the STO, to support the functions of the statewide 911 system director. Under the bill, the STO will receive 0.75% of 911 wire-line and wireless fee proceeds, which the STO estimates will generate at least \$623,202 annually (\$535,312 from county distributions, and \$87,890 from provider distributions). In addition, 2% of the fee proceeds currently sent 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 instead be allocated to “statewide programs” administered by the board. The following table illustrates the current and proposed distributions.

<b>DISTRIBUTION OF FEE PROCEEDS</b>				
	<b>911 Fee</b>		<b>E911 Fee</b>	
	Current	Proposed	Current	Proposed
Counties	99%	98.25%	44%	43.75%
Phone Providers				
Admin. Share	1%	(no change)	54%	53.50%
STO	0	0.75%	0	0.75%
E911 Wireless Board	n/a	n/a	up to 2%	2%
Additional Rural County Share	n/a	n/a	2%	0
Funding for “Statewide Programs”	n/a	n/a	0	2%

B. Private Sector Impact:

None.

**C. Government Sector Impact:**

This CS increases the responsibilities of the board, to include the development, management and administration of “statewide programs” to promote the efficient, effective, and timely implementation of a statewide-enhanced 911 service. However, the board will receive additional contributions.

**VI. Technical Deficiencies:**

Paragraph (d) of Section 365.172(9), F.S., is amended to provide that the board may request a report of the number of wireless subscribers no more than twice a year. Later in that paragraph, however, the CS provides that the board may waive the requirement that said information be submitted to the board each month and authorize the provider to submit the information quarterly. This inconsistency should be resolved.

**VII. Related Issues:**

In the Operational Audit of the Wireless Emergency Telephone System Fund of the State Technology Office (Report No. 02-114), the Auditor General made two recommendations:

- The Legislature should consider amending s. 365.173, F.S., to require the counties to establish a fund to be used exclusively to account for the receipt and expenditure of E911 fee revenues; and
- The Legislature should consider amending s. 365.173, F.S., 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 CS implements these recommendations.

**VIII. Amendments:**

None.