

1 A bill to be entitled
2 An act relating to emergency communication system;
3 amending s. 365.172, F.S., relating to the Emergency
4 Communications Number E911 System; revising
5 definitions; revising provisions relating to oversight
6 of certain fees by the Technology Program within the
7 Department of Management Services; revising E911 board
8 appointment provisions; revising duties of the board;
9 revising provisions for administration, distribution,
10 and use of the E911 fee; revising fee collection
11 procedures; providing for the amount of the fee;
12 authorizing the board to adjust the rate of the fee;
13 prohibiting a local government from imposing a fee on
14 sellers of prepaid wireless services; providing for a
15 prepaid wireless E911 fee; requiring the Department of
16 Revenue to provide notice to sellers and establish
17 registration, payment, and documentation procedures;
18 providing for distribution and use of fees collected;
19 providing that fees collected may not be included in
20 the base for measuring any tax, fee, surcharge, or
21 other charge; providing for application of specified
22 audit and appeals procedures; limiting liability of
23 provider or seller of prepaid wireless service;
24 providing that the state and local governments are not
25 subscribers for certain purposes; providing
26 definitions for specified purposes; revising
27 provisions for authorized expenditures of the E911
28 fee; providing that certain costs of the Department of

29 Health are functions of 911 services; amending s.
 30 365.173, F.S.; revising provisions for accounting,
 31 distribution, use, and auditing of the Emergency
 32 Communications Number E911 System Fund; providing for
 33 a prepaid wireless category in such fund; providing an
 34 effective date.

35
 36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. Subsections (3) through (9) of section 365.172,
 39 Florida Statutes, are amended, subsections (9) through (14) are
 40 renumbered as subsections (10) through (15), respectively, and a
 41 new subsection (9) is added to that section, to read:

42 365.172 Emergency communications number ~~"E911."~~

43 (3) DEFINITIONS.—Only as used in this section and ss.
 44 365.171, 365.173, and 365.174, the term:

45 (a) "Answering point" means the public safety agency that
 46 receives incoming 911 calls and dispatches appropriate public
 47 safety agencies to respond to the calls.

48 (b) "Authorized expenditures" means expenditures of the
 49 fee, as specified in subsection (10) ~~(9)~~.

50 (c) "Automatic location identification" means the
 51 capability of the E911 service which enables the automatic
 52 display of information that defines the approximate geographic
 53 location of the wireless telephone, or the location of the
 54 address of the wireline telephone, used to place a 911 call.

55 (d) "Automatic number identification" means the capability
 56 of the E911 service which enables the automatic display of the

57 service number used to place a 911 call.

58 (e) "Board" or "E911 Board" means the board of directors
59 of the E911 Board established in subsection (5).

60 (f) "Building permit review" means a review for compliance
61 with building construction standards adopted by the local
62 government under chapter 553 and does not include a review for
63 compliance with land development regulations.

64 (g) "Collocation" means the situation when a second or
65 subsequent wireless provider uses an existing structure to
66 locate a second or subsequent antennae. The term includes the
67 ground, platform, or roof installation of equipment enclosures,
68 cabinets, or buildings, and cables, brackets, and other
69 equipment associated with the location and operation of the
70 antennae.

71 (h) "Designed service" means the configuration and manner
72 of deployment of service the wireless provider has designed for
73 an area as part of its network.

74 (i) "E911" is the designation for an enhanced 911 system
75 or enhanced 911 service that is an emergency telephone system or
76 service that provides a subscriber with 911 service and, in
77 addition, directs 911 calls to appropriate public safety
78 answering points by selective routing based on the geographical
79 location from which the call originated, or as otherwise
80 provided in the state plan under s. 365.171, and that provides
81 for automatic number identification and automatic location-
82 identification features. E911 service provided by a wireless
83 provider means E911 as defined in the order.

84 (j) "Existing structure" means a structure that exists at

85 | the time an application for permission to place antennae on a
86 | structure is filed with a local government. The term includes
87 | any structure that can structurally support the attachment of
88 | antennae in compliance with applicable codes.

89 | (k) "Fee" means the E911 fee authorized and imposed under
90 | subsection (8) or the prepaid wireless E911 fee authorized and
91 | imposed under subsection (9).

92 | (l) "Fund" means the Emergency Communications Number E911
93 | System Fund established in s. 365.173 and maintained under this
94 | section for the purpose of recovering the costs associated with
95 | providing 911 service or E911 service, including the costs of
96 | implementing the order. The fund shall be segregated into
97 | wireless, prepaid wireless, and nonwireless categories.

98 | (m) "Historic building, structure, site, object, or
99 | district" means any building, structure, site, object, or
100 | district that has been officially designated as a historic
101 | building, historic structure, historic site, historic object, or
102 | historic district through a federal, state, or local designation
103 | program.

104 | (n) "Land development regulations" means any ordinance
105 | enacted by a local government for the regulation of any aspect
106 | of development, including an ordinance governing zoning,
107 | subdivisions, landscaping, tree protection, or signs, the local
108 | government's comprehensive plan, or any other ordinance
109 | concerning any aspect of the development of land. The term does
110 | not include any building construction standard adopted under and
111 | in compliance with chapter 553.

112 | (o) "Local exchange carrier" means a "competitive local

113 exchange telecommunications company" or a "local exchange
114 telecommunications company" as defined in s. 364.02.

115 (p) "Local government" means any municipality, county, or
116 political subdivision or agency of a municipality, county, or
117 political subdivision.

118 (q) "Medium county" means any county that has a population
119 of 75,000 or more but less than 750,000.

120 (r) "Mobile telephone number" or "MTN" means the telephone
121 number assigned to a wireless telephone at the time of initial
122 activation.

123 (s) "Nonwireless category" means the revenues to the fund
124 received from voice communications services providers other than
125 wireless providers.

126 (t) "Office" means the Technology Program within the
127 Department of Management Services, as designated by the
128 secretary of the department.

129 (u) "Order" means:

130 1. The following orders and rules of the Federal
131 Communications Commission issued in FCC Docket No. 94-102:

132 a. Order adopted on June 12, 1996, with an effective date
133 of October 1, 1996, the amendments to s. 20.03 and the creation
134 of s. 20.18 of Title 47 of the Code of Federal Regulations
135 adopted by the Federal Communications Commission pursuant to
136 such order.

137 b. Memorandum and Order No. FCC 97-402 adopted on December
138 23, 1997.

139 c. Order No. FCC DA 98-2323 adopted on November 13, 1998.

140 d. Order No. FCC 98-345 adopted December 31, 1998.

141 2. Orders and rules subsequently adopted by the Federal
 142 Communications Commission relating to the provision of 911
 143 services, including Order Number FCC-05-116, adopted May 19,
 144 2005.

145 (v) "Prepaid wireless category" means all revenues in the
 146 fund received through the Department of Revenue from the fee
 147 authorized and imposed under subsection (9).

148 (w) "Prepaid wireless service" means a right to access
 149 wireless service that allows a caller to contact and interact
 150 with 911 to access the 911 system, which service must be paid
 151 for in advance and is sold in predetermined units or dollars,
 152 which units or dollars expire on a predetermined schedule or are
 153 decremented on a predetermined basis in exchange for the right
 154 to access wireless service.

155 ~~(v) "Prepaid calling arrangements" has the same meaning as~~
 156 ~~defined in s. 212.05(1)(e).~~

157 ~~(x)(w)~~ "Public agency" means the state and any
 158 municipality, county, municipal corporation, or other
 159 governmental entity, public district, or public authority
 160 located in whole or in part within this state which provides, or
 161 has authority to provide, firefighting, law enforcement,
 162 ambulance, medical, or other emergency services.

163 ~~(y)(x)~~ "Public safety agency" means a functional division
 164 of a public agency which provides firefighting, law enforcement,
 165 medical, or other emergency services.

166 (z) "Public safety answering point" or "PSAP" means the
 167 public safety agency that receives incoming 911 requests for
 168 assistance and dispatches appropriate public safety agencies to

169 respond to the requests in accordance with the state E911 plan.

170 (aa)~~(y)~~ "Rural county" means any county that has a
171 population of fewer than 75,000.

172 (bb)~~(z)~~ "Service identifier" means the service number,
173 access line, or other unique subscriber identifier assigned to a
174 subscriber and established by the Federal Communications
175 Commission for purposes of routing calls whereby the subscriber
176 has access to the E911 system.

177 (cc)~~(aa)~~ "Tower" means any structure designed primarily to
178 support a wireless provider's antennae.

179 (dd)~~(bb)~~ "Voice communications services" means two-way
180 voice service, through the use of any technology, which actually
181 provides access to E911 services, and includes communications
182 services, as defined in s. 202.11, which actually provide access
183 to E911 services and which are required to be included in the
184 provision of E911 services pursuant to orders and rules adopted
185 by the Federal Communications Commission. The term includes
186 voice-over-Internet-protocol service. For the purposes of this
187 section, the term "voice-over-Internet-protocol service" or
188 "VoIP service" means interconnected VoIP services having the
189 following characteristics:

190 1. The service enables real-time, two-way voice
191 communications;

192 2. The service requires a broadband connection from the
193 user's locations;

194 3. The service requires IP-compatible customer premises
195 equipment; and

196 4. The service offering allows users generally to receive

197 calls that originate on the public switched telephone network
198 and to terminate calls on the public switched telephone network.

199 (ee)~~(ee)~~ "Voice communications services provider" or
200 "provider" means any person or entity providing voice
201 communications services, except that the term does not include
202 any person or entity that resells voice communications services
203 and was assessed the fee authorized and imposed under subsection
204 (8) by its resale supplier.

205 (ff)~~(dd)~~ "Wireless 911 system" or "wireless 911 service"
206 means an emergency telephone system or service that provides a
207 subscriber with the ability to reach an answering point by
208 accessing the digits "911."

209 (gg)~~(ee)~~ "Wireless category" means the revenues to the
210 fund received from a wireless provider from the fee authorized
211 and imposed under subsection (8).

212 (hh)~~(ff)~~ "Wireless communications facility" means any
213 equipment or facility used to provide service and may include,
214 but is not limited to, antennae, towers, equipment enclosures,
215 cabling, antenna brackets, and other such equipment. Placing a
216 wireless communications facility on an existing structure does
217 not cause the existing structure to become a wireless
218 communications facility.

219 (ii)~~(gg)~~ "Wireless provider" means a person who provides
220 wireless service and:

- 221 1. Is subject to the requirements of the order; or
- 222 2. Elects to provide wireless 911 service or E911 service
- 223 in this state.

224 (jj)~~(hh)~~ "Wireless service" means "commercial mobile radio

225 service" as provided under ss. 3(27) and 332(d) of the Federal
226 Telecommunications Act of 1996, 47 U.S.C. ss. 151 et seq., and
227 the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-
228 66, August 10, 1993, 107 Stat. 312. The term includes service
229 provided by any wireless real-time two-way wire communication
230 device, including radio-telephone communications used in
231 cellular telephone service; personal communications service; or
232 the functional or competitive equivalent of a radio-telephone
233 communications line used in cellular telephone service, a
234 personal communications service, or a network radio access line.
235 The term does not include wireless providers that offer mainly
236 dispatch service in a more localized, noncellular configuration;
237 providers offering only data, one-way, or stored-voice services
238 on an interconnected basis; providers of air-to-ground services;
239 or public coast stations.

240 (4) POWERS AND DUTIES OF THE OFFICE.—The office shall
241 oversee the administration of the fee authorized ~~and imposed on~~
242 ~~subscribers of voice communications services~~ under subsections
243 ~~subsection~~ (8) and (9).

244 (5) THE E911 BOARD.—

245 (a) The E911 Board is established to administer, with
246 oversight by the office, the fees ~~fee~~ imposed under subsections
247 ~~subsection~~ (8) and (9), including receiving revenues derived
248 from the fee; distributing portions of the revenues to wireless
249 providers, counties, and the office; accounting for receipts,
250 distributions, and income derived by the funds maintained in the
251 fund; and providing annual reports to the Governor and the
252 Legislature for submission by the office on amounts collected

253 and expended, the purposes for which expenditures have been
254 made, and the status of E911 service in this state. In order to
255 advise and assist the office in implementing the purposes of
256 this section, the board, which has the power of a body
257 corporate, has the powers enumerated in subsection (6).

258 (b) The board shall consist of 11 members, one of whom
259 must be the system director designated under s. 365.171(5), or
260 his or her designee, who shall serve as the chair of the board.
261 The remaining 10 members of the board shall be appointed by the
262 Governor and must be composed of 5 county 911 coordinators,
263 consisting of a representative from a rural county, a
264 representative from a medium county, a representative from a
265 large county, and 2 at-large representatives recommended by the
266 Florida Association of Counties in consultation with the county
267 911 coordinators; 3 local exchange carrier member
268 representatives, one of whom must be a representative of the
269 local exchange carrier having the greatest number of access
270 lines in the state and one of whom must be a representative of a
271 certificated competitive local exchange telecommunications
272 company; and 2 member representatives from the wireless
273 telecommunications industry, with consideration given to
274 wireless providers that are not affiliated with local exchange
275 carriers. Not more than one member may be appointed to represent
276 any single provider on the board.

277 (c) The system director, designated under s. 365.171(5),
278 or his or her designee, must be a permanent member of the board.
279 Each of the remaining ten ~~eight~~ members of the board shall be
280 appointed to a 4-year term and may not be appointed to more than

281 two successive terms. However, for the purpose of staggering
282 terms, two of the original board members shall be appointed to
283 terms of 4 years, two shall be appointed to terms of 3 years,
284 and four shall be appointed to terms of 2 years, as designated
285 by the Governor. A vacancy on the board shall be filled in the
286 same manner as the original appointment.

287 ~~(d) The first vacancy in a wireless provider~~
288 ~~representative position occurring after July 1, 2007, must be~~
289 ~~filled by appointment of a local exchange company~~
290 ~~representative. Until the appointment is made, there shall be~~
291 ~~only one local exchange company representative serving on the~~
292 ~~board, notwithstanding any other provision to the contrary.~~

293 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.—

294 (a) The board shall:

- 295 1. Administer the E911 fee.
- 296 2. Implement, maintain, and oversee the fund.
- 297 3. Review and oversee the disbursement of the revenues
298 deposited into the fund as provided in s. 365.173.

299 a. The board may establish a schedule for implementing
300 wireless E911 service by service area, and prioritize
301 disbursements of revenues from the fund to providers and rural
302 counties as provided in s. 365.173(2)(e) ~~365.173(2)(d)~~ and (g)
303 pursuant to the schedule, in order to implement E911 services in
304 the most efficient and cost-effective manner.

305 b. Revenues in the fund which have not been disbursed
306 because sworn invoices as required by s. 365.173(2)(e)
307 ~~365.173(2)(d)~~ have not been submitted to the board may be used
308 by the board as needed to provide grants to counties for the

309 purpose of upgrading E911 systems. The counties must use the
310 funds only for capital expenditures directly attributable to
311 establishing and provisioning E911 services, which may include
312 next-generation deployment. Prior to the distribution of grants,
313 the board shall provide 90 days' written notice to all counties
314 and publish electronically an approved application process.
315 County grant applications shall be prioritized based on the
316 availability of funds, current system life expectancy, system
317 replacement needs, and Phase II compliance per the Federal
318 Communications Commission. No grants will be available to any
319 county for next-generation deployment until all counties are
320 Phase II complete. The board shall take all actions within its
321 authority to ensure that county recipients of such grants use
322 these funds only for the purpose under which they have been
323 provided and may take any actions within its authority to secure
324 county repayment of grant revenues upon determination that the
325 funds were not used for the purpose under which they were
326 provided.

327 c. When determining the funding provided in a state 911
328 grant application request, the board shall take into account
329 information on the amount of carry forward funds retained by the
330 counties. The information will be based on the amount of county
331 carry forward funds reported in the financial audit required in
332 s. 365.173(2)(d). State E911 Grant Program funding requests will
333 be limited by any county carry forward funds in excess of the
334 allowable 30 percent amount of fee revenue calculated on a 2-
335 year basis.

336 d.e. The board shall reimburse all costs of a wireless

337 provider in accordance with s. 365.173(2)(e) ~~365.173(2)(d)~~
338 before taking any action to transfer additional funds.

339 ~~d. By September 1, 2007, the board shall authorize the~~
340 ~~transfer of up to \$15 million to the counties from existing~~
341 ~~money within the fund established under s. 365.173(1). The money~~
342 ~~shall be disbursed equitably to all of the counties using a~~
343 ~~timeframe and distribution methodology established by the board~~
344 ~~before September 1, 2007, in order to prevent a loss to the~~
345 ~~counties in the ordinary and expected time value of money caused~~
346 ~~by any timing delay in remittance to the counties of wireline~~
347 ~~fees caused by the one-time transfer of collecting wireline fees~~
348 ~~by the counties to the board. All disbursements for this purpose~~
349 ~~must be returned to the fund from future remittances by the~~
350 ~~nonwireless category.~~

351 e. After taking the action required in sub-subparagraphs
352 a.-d., the board may review and, with all members participating
353 in the vote, adjust the percentage allocations or adjust the
354 amount of the fee as provided, ~~or both~~, under paragraph (8)(g)
355 ~~(8)(h)~~, and, if the board determines that the revenues in the
356 wireless category exceed the amount needed to reimburse wireless
357 providers for the cost to implement E911 services, the board may
358 transfer revenue to the counties from the existing funds within
359 the wireless category. The board shall disburse the funds
360 equitably to all counties using a timeframe and distribution
361 methodology established by the board.

362 4. Review documentation submitted by wireless providers
363 which reflects current and projected funds derived from the fee,
364 and the expenses incurred and expected to be incurred in order

365 to comply with the E911 service requirements contained in the
366 order for the purposes of:

367 a. Ensuring that wireless providers receive fair and
368 equitable distributions of funds from the fund.

369 b. Ensuring that wireless providers are not provided
370 disbursements from the fund which exceed the costs of providing
371 E911 service, including the costs of complying with the order.

372 c. Ascertaining the projected costs of compliance with the
373 requirements of the order and projected collections of the fee.

374 d. Implementing changes to the allocation percentages or
375 adjusting the fee under paragraph (8) (h) ~~(8) (i)~~.

376 5. Meet monthly in the most efficient and cost-effective
377 manner, including telephonically when practical, for the
378 business to be conducted, to review and approve or reject, in
379 whole or in part, applications submitted by wireless providers
380 for recovery of moneys deposited into the wireless category, and
381 to authorize the transfer of, and distribute, the fee allocation
382 to the counties.

383 6. Hire and retain employees, which may include an
384 independent executive director who shall possess experience in
385 the area of telecommunications and emergency 911 issues, for the
386 purposes of performing the technical and administrative
387 functions for the board.

388 7. Make and enter into contracts, pursuant to chapter 287,
389 and execute other instruments necessary or convenient for the
390 exercise of the powers and functions of the board.

391 8. Sue and be sued, and appear and defend in all actions
392 and proceedings, in its corporate name to the same extent as a

393 | natural person.

394 | 9. Adopt, use, and alter a common corporate seal.

395 | 10. Elect or appoint the officers and agents that are

396 | required by the affairs of the board.

397 | 11. The board may adopt rules under ss. 120.536(1) and

398 | 120.54 to implement this section and ss. 365.173 and 365.174.

399 | 12. Provide coordination, support, and technical

400 | assistance to counties to promote the deployment of advanced 911

401 | and E911 systems in the state.

402 | 13. Provide coordination and support for educational

403 | opportunities related to E911 issues for the E911 community in

404 | this state.

405 | 14. Act as an advocate for issues related to E911 system

406 | functions, features, and operations to improve the delivery of

407 | E911 services to the residents of and visitors to this state.

408 | 15. Coordinate input from this state at national forums

409 | and associations, to ensure that policies related to E911

410 | systems and services are consistent with the policies of the

411 | E911 community in this state.

412 | 16. Work cooperatively with the system director

413 | established in s. 365.171(5) to enhance the state of E911

414 | services in this state and to provide unified leadership for all

415 | E911 issues through planning and coordination.

416 | 17. Do all acts and things necessary or convenient to

417 | carry out the powers granted in this section in a manner that is

418 | competitively and technologically neutral as to all voice

419 | communications services providers, including, but not limited

420 | to, consideration of emerging technology and related cost

421 savings, while taking into account embedded costs in current
 422 systems.

423 18. Have the authority to secure the services of an
 424 independent, private attorney via invitation to bid, request for
 425 proposals, invitation to negotiate, or professional contracts
 426 for legal services already established at the Division of
 427 Purchasing of the Department of Management Services.

428 (b) Board members shall serve without compensation;
 429 however, members are entitled to per diem and travel expenses as
 430 provided in s. 112.061.

431 (c) By February 28 of each year, the board shall prepare a
 432 report for submission by the office to the Governor, the
 433 President of the Senate, and the Speaker of the House of
 434 Representatives which addresses for the immediately preceding
 435 state fiscal year and county fiscal ~~calendar~~ year:

436 1. The annual receipts, including the total amount of fee
 437 revenues collected by each provider, the total disbursements of
 438 money in the fund, including the amount of fund-reimbursed
 439 expenses incurred by each wireless provider to comply with the
 440 order, and the amount of moneys on deposit in the fund.

441 2. Whether the amount of the fee and the allocation
 442 percentages set forth in s. 365.173 have been or should be
 443 adjusted to comply with the requirements of the order or other
 444 provisions of this chapter, and the reasons for making or not
 445 making a recommended adjustment to the fee.

446 3. Any other issues related to providing E911 services.

447 4. The status of E911 services in this state.

448 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING

449 FIRM.—

450 (a) The board shall issue a request for proposals as
 451 provided in chapter 287 for the purpose of retaining an
 452 independent accounting firm. The independent accounting firm
 453 shall perform all material administrative and accounting tasks
 454 and functions required for administering the fee. The request
 455 for proposals must include, but need not be limited to:

456 1. A description of the scope and general requirements of
 457 the services requested.

458 2. A description of the specific accounting and reporting
 459 services required for administering the fund, including
 460 processing checks and distributing funds as directed by the
 461 board under s. 365.173.

462 3. A description of information to be provided by the
 463 proposer, including the proposer's background and qualifications
 464 and the proposed cost of the services to be provided.

465 (b) The board shall establish a committee to review
 466 requests for proposals which must include the statewide E911
 467 system director designated under s. 365.171(5), or his or her
 468 designee, and two members of the board, one of whom is a county
 469 911 coordinator and one of whom represents a voice
 470 communications services provider. The review committee shall
 471 review the proposals received by the board and recommend an
 472 independent accounting firm to the board for final selection. By
 473 agreeing to serve on the review committee, each member of the
 474 review committee shall verify that he or she does not have any
 475 interest or employment, directly or indirectly, with potential
 476 proposers which conflicts in any manner or degree with his or

477 her performance on the committee.

478 (c) ~~After July 1, 2004,~~ The board may secure the services
479 of an independent accounting firm via invitation to bid, request
480 for proposals, invitation to negotiate, or professional
481 contracts already established at the Division of Purchasing,
482 Department of Management Services, for certified public
483 accounting firms, or the board may hire and retain professional
484 accounting staff to accomplish these functions.

485 (8) E911 FEE.—

486 (a) Each voice communications services provider shall
487 collect the fee described in this subsection. Each provider, as
488 part of its monthly billing process, shall bill the fee as
489 follows. The fee shall not be assessed on any pay telephone in
490 the state.

491 1. Each voice communications service provider other than a
492 wireless provider shall bill the fee to a subscriber based on
493 the number of access lines having access to the E911 system, on
494 a service-identifier basis, up to a maximum of 25 access lines
495 per account bill rendered.

496 2. Each voice communications service provider other than a
497 wireless provider shall bill the fee to a subscriber on a basis
498 of five service-identified access lines for each digital
499 transmission link, including primary rate interface service or
500 equivalent Digital-Signal-1-level service, which can be
501 channelized and split into 23 or 24 voice-grade or data-grade
502 channels for communications, up to a maximum of 25 access lines
503 per account bill rendered.

504 3. Except in the case of prepaid wireless service, each

505 wireless provider shall bill the fee to a subscriber on a per-
506 service-identifier basis for service identifiers whose primary
507 place of use is within this state. ~~Before July 1, 2013, the fee~~
508 ~~shall not be assessed on or collected from a provider with~~
509 ~~respect to an end user's service if that end user's service is a~~
510 ~~prepaid calling arrangement that is subject to s. 212.05(1)(c).~~

511 ~~a. An E911 fee shall not be collected from the sale of~~
512 ~~prepaid wireless service before July 1, 2013.~~

513 ~~b. For purposes of this section, the term:~~

514 ~~(I) "Prepaid wireless service" means the right to access~~
515 ~~telecommunications services, which must be paid for in advance~~
516 ~~and sold in predetermined units or dollars enabling the~~
517 ~~originator to make calls such that the number of units or~~
518 ~~dollars declines with use in a known amount.~~

519 ~~(II) "Prepaid wireless service providers" includes those~~
520 ~~persons who sell prepaid wireless service regardless of its~~
521 ~~form, as a retailer or reseller.~~

522 4. Except in the case of prepaid wireless service, each
523 ~~The voice communications services provider providers~~ not
524 addressed under subparagraphs 1., 2., and 3. shall bill the fee
525 on a per-service-identifier basis for service identifiers whose
526 primary place of use is within the state up to a maximum of 25
527 service identifiers for each account bill rendered.

528
529 The provider may list the fee as a separate entry on each bill,
530 in which case the fee must be identified as a fee for E911
531 services. A provider shall remit the fee to the board only if
532 the fee is paid by the subscriber. If a provider receives a

533 partial payment for a monthly bill from a subscriber, the amount
534 received shall first be applied to the payment due the provider
535 for providing voice communications service.

536 (b) A provider is not obligated to take any legal action
537 to enforce collection of the fees for which any subscriber is
538 billed. A county subscribing to 911 service remains liable to
539 the provider delivering the 911 service or equipment for any 911
540 service, equipment, operation, or maintenance charge owed by the
541 county to the provider.

542 (c) For purposes of this section, the state and local
543 governments are not subscribers.

544 (d) Each provider may retain 1 percent of the amount of
545 the fees collected as reimbursement for the administrative costs
546 incurred by the provider to bill, collect, and remit the fee.
547 The remainder shall be delivered to the board and deposited by
548 the board into the fund. The board shall distribute the
549 remainder pursuant to s. 365.173.

550 (e) ~~Effective September 1, 2007,~~ Voice communications
551 services providers billing the fee to subscribers shall deliver
552 revenues from the fee to the board within 60 days after the end
553 of the month in which the fee was billed, together with a
554 monthly report of the number of service identifiers in each
555 county. Each wireless provider and other applicable provider
556 identified in subparagraph (a)4. shall report the number of
557 service identifiers for subscribers whose place of primary use
558 is in each county. All provider subscriber information provided
559 to the board is subject to s. 365.174. If a provider chooses to
560 remit any fee amounts to the board before they are paid by the

561 subscribers, a provider may apply to the board for a refund of,
562 or may take a credit for, any such fees remitted to the board
563 which are not collected by the provider within 6 months
564 following the month in which the fees are charged off for
565 federal income tax purposes as bad debt.

566 (f) The rate of the fee ~~shall be set by the board after~~
567 ~~considering the factors set forth in paragraphs (h) and (i), but~~
568 may not exceed 50 cents per month per each service identifier.
569 Beginning on January 1, 2014, the fee shall be 46 cents. The fee
570 shall apply uniformly and be imposed throughout the state,
571 except for those counties that, before July 1, 2007, had adopted
572 an ordinance or resolution establishing a fee less than 50 cents
573 per month per access line. In those counties the fee established
574 by ordinance may be changed only to the uniform statewide rate
575 no sooner than 30 days after notification is made by the
576 county's board of county commissioners to the board.

577 ~~(g) It is the intent of the Legislature that all revenue~~
578 ~~from the fee be used as specified in s. 365.173(2)(a)-(i).~~

579 ~~(g)(h) No later than November 1, 2007,~~ The board may
580 adjust the allocation percentages for distribution of the fund
581 as provided in s. 365.173. After January 1, 2015, the board may
582 adjust the rate of the fee under paragraph (f) based on the
583 criteria in this paragraph and paragraph (h). Any adjustment in
584 the rate must be approved by a two-thirds vote of the total
585 number of E911 board members. When setting the percentages or
586 ~~and~~ contemplating any adjustments to the fee, the board shall
587 consider the following:

588 1. The revenues currently allocated for wireless service

589 provider costs for implementing E911 service and projected costs
590 for implementing E911 service, including recurring costs for
591 Phase I and Phase II and the effect of new technologies;

592 2. The appropriate level of funding needed to fund the
593 rural grant program provided for in s. 365.173(2)(g); and

594 3. The need to fund statewide, regional, and county grants
595 in accordance with sub-subparagraph (6)(a)3.b.

596 (h)~~(i)~~ The board may adjust the allocation percentages or
597 adjust the amount of the fee as provided in paragraph (g),~~or~~
598 ~~both~~, if necessary to ensure full cost recovery or prevent
599 overrecovery of costs incurred in the provision of E911 service,
600 including costs incurred or projected to be incurred to comply
601 with the order. Any new allocation percentages or reduced or
602 increased fee may not be adjusted for 1 year. In no event shall
603 the fee may not exceed 50 cents per month for ~~per~~ each service
604 identifier. The ~~board-established~~ fee, and any board adjustment
605 of the fee, shall be uniform throughout the state, except for
606 the counties identified in paragraph (f). No less than 90 days
607 before the effective date of any adjustment to the fee, the
608 board shall provide written notice of the adjusted fee amount
609 and effective date to each voice communications services
610 provider from which the board is then receiving the fee.

611 (i) It is the intent of the Legislature that all revenue
612 from the fee be used as specified in s. 365.173(2)(a)-(i).

613 (j) State and local taxes do not apply to the fee. The
614 amount of the E911 fee collected by a seller or provider may not
615 be included in the base for measuring any tax, fee, surcharge,
616 or other charge imposed by this state, any political subdivision

617 of this state, or any governmental agency.

618 (k) A local government may not levy the fee or any
619 additional fee on providers, ~~or subscribers,~~ or sellers of
620 prepaid wireless services for the provision of E911 service.

621 (l) For purposes of this section, the definitions
622 contained in s. 202.11 and the provisions of s. 202.155 apply in
623 the same manner and to the same extent as the definitions and
624 provisions apply to the taxes levied under chapter 202 on mobile
625 communications services.

626 (9) PREPAID WIRELESS E911 FEE.—

627 (a) There is imposed a prepaid wireless E911 fee per
628 retail transaction at the rate and in the manner set forth in
629 paragraphs (8)(f)-(h). Beginning January 1, 2014, the fee shall
630 be 46 cents. In no event shall the fee exceed 50 cents per month
631 for each retail transaction. No less than 90 days before the
632 effective date of any adjustment to the fee under paragraph
633 (8)(g), the Department of Revenue shall provide written notice
634 of the adjusted fee amount and its effective date to each seller
635 from which the department is then receiving the fee.

636 (b) The prepaid wireless E911 fee shall be collected by
637 the seller from the consumer with respect to each retail
638 transaction occurring in this state. The amount of the prepaid
639 wireless E911 fee shall either be separately stated on an
640 invoice, receipt, or other similar document that is provided to
641 the consumer by the seller or otherwise disclosed to the
642 consumer.

643 (c) For purposes of paragraph (b), a retail transaction
644 that is effected in person by a consumer at a business location

645 of the seller shall be treated as occurring in this state if
646 that business location is in this state, and any other retail
647 transaction shall be treated as occurring in this state if the
648 retail transaction is treated as occurring in this state under
649 s. 212.05(1)(e)1.a.(II).

650 (d) If a prepaid wireless device is sold for a single,
651 nonitemized price with a prepaid wireless service of 10 minutes
652 or less or \$5 or less, the seller may elect not to apply the
653 wireless E911 fee to the transaction.

654 (e) The prepaid wireless E911 fee is the liability of the
655 consumer and not of the seller or of any provider, except that
656 the seller is liable to remit all prepaid wireless E911 fees
657 that the seller collects from consumers as provided in this
658 subsection, including all such charges that the seller is deemed
659 to collect where the amount of the charge has not been
660 separately stated on an invoice, receipt, or other similar
661 document provided to the consumer by the seller.

662 (f) The amount of the prepaid wireless E911 fee that is
663 collected by a seller from a consumer, whether or not such
664 amount is separately stated on an invoice, receipt, or similar
665 document provided to the consumer by the seller, shall not be
666 included in the base for measuring any tax, fee, surcharge, or
667 other charge that is imposed by this state, any political
668 subdivision of this state, or any intergovernmental agency.

669 (g) Prepaid wireless E911 fees collected by sellers shall
670 be remitted to the Department of Revenue at the times and in the
671 manner provided under s. 212.11. The Department of Revenue shall
672 aggregate and identify the prepaid wireless E911 fee by the

673 county in which the fee was collected. The Department of Revenue
674 shall establish registration and payment procedures that
675 substantially coincide with the registration and payment
676 procedures that apply to the tax imposed by chapter 212.

677 (h) The Department of Revenue shall retain up to 3 percent
678 of the funds remitted under this subsection to reimburse its
679 direct costs of administering the collection and remittance of
680 prepaid wireless fees. Thereafter, the department shall transfer
681 all remaining funds remitted under this subsection to the E911
682 Board within 30 days after receipt for use as provided in
683 subsection (5).

684 (i) In order to allow sellers of all sizes and
685 technological capabilities adequate time to comply with this
686 subsection, a seller will begin collecting the prepaid wireless
687 fee November 1, 2013. From November 1, 2013, until December 31,
688 2013, the fee will be in the amount of 46 cents. Sellers will
689 retain 100 percent of collections for 2 months to offset the
690 cost of setup.

691 (j) Beginning January 1, 2014, a seller may retain 5
692 percent of the prepaid wireless E911 fees that are collected by
693 the seller from consumers.

694 (k) The audit and appeals procedures applicable under s.
695 212.13 applies to prepaid wireless E911 fees.

696 (l) The Department of Revenue shall establish procedures
697 for a seller of prepaid wireless service to document that a sale
698 is not a retail transaction. The procedures shall substantially
699 coincide with the procedures for documenting a sale for resale
700 transaction under s. 212.186.

701 (m) A provider or seller of prepaid wireless service is
702 not liable for damages to any person resulting from or incurred
703 in connection with providing or failing to provide 911 or E911
704 service or for identifying or failing to identify the telephone
705 number, address, location, or name associated with any person or
706 device that is accessing or attempting to access 911 or E911
707 service.

708 (n) A provider or seller of prepaid wireless service is
709 not liable for damages to any person resulting from or incurred
710 in connection with providing any lawful assistance to any
711 investigative or law enforcement officer of the United States,
712 any state, or any political subdivision of any state in
713 connection with any lawful investigation or other law
714 enforcement activity by such law enforcement officer.

715 (o) The limitations of liability under this subsection for
716 providers and sellers is in addition to any other limitation of
717 liability provided for under this section.

718 (p) A local government may not levy any additional fee on
719 providers or sellers of prepaid wireless service for the
720 provision of E911 service.

721 (q) For purposes of this section, the state and local
722 governments are not subscribers.

723 (r) For purposes of this subsection, the term:

724 1. "Consumer" means a person who purchases prepaid
725 wireless service in a retail sale.

726 2. "Prepaid wireless E911 fee" means the fee that is
727 required to be collected by a seller from a consumer in the
728 amount established under paragraphs (8) (f) - (h).

729 3. "Provider" means a person that provides prepaid wireless
730 service pursuant to a license issued by the Federal
731 Communications Commission.

732 4. "Retail transaction" means the purchase of prepaid
733 wireless service from a seller for any purpose other than
734 resale.

735 5. "Seller" means a person who sells prepaid wireless
736 service to another person.

737 ~~(10)(9)~~ AUTHORIZED EXPENDITURES OF E911 FEE.—

738 (a) For purposes of this section, E911 service includes
739 the functions of database management, call taking, dispatching,
740 location verification, and call transfer. Department of Health
741 certification and recertification and training costs for 911
742 public safety telecommunications, including dispatching, are
743 functions of 911 services.

744 (b) All costs directly attributable to the establishment
745 or provision of E911 service and contracting for E911 services
746 are eligible for expenditure of moneys derived from imposition
747 of the fee authorized by this section. These costs include the
748 acquisition, implementation, and maintenance of Public Safety
749 Answering Point (PSAP) equipment and E911 service features, as
750 defined in the providers' published schedules ~~Public Service~~
751 ~~Commission's lawfully approved 911 and E911 and related tariffs~~
752 or the acquisition, installation, and maintenance of other E911
753 equipment, including circuits, call answering equipment, call
754 transfer equipment, ANI controllers, ALI controllers, ANI
755 displays, ALI displays, station instruments, E911
756 telecommunications systems, visual call information and storage

757 devices, recording equipment, telephone devices and other
758 equipment for the hearing impaired used in the E911 system, PSAP
759 backup power systems, consoles, automatic call distributors, and
760 interfaces, including hardware and software, for computer-aided
761 dispatch (CAD) systems, integrated CAD systems for that portion
762 of the systems used for E911 call taking, GIS system and
763 software equipment and information displays, network clocks,
764 salary and associated expenses for E911 call takers for that
765 portion of their time spent taking and transferring E911 calls,
766 salary and associated expenses for a county to employ a full-
767 time equivalent E911 coordinator position and a full-time
768 equivalent mapping or geographical data position, and technical
769 system maintenance, database, and administration personnel ~~and a~~
770 ~~staff assistant position per county~~ for the portion of their
771 time spent administrating the E911 system, emergency medical,
772 fire, and law enforcement prearrival instruction software,
773 charts and training costs, training costs for PSAP call takers,
774 supervisors, and managers in the proper methods and techniques
775 used in taking and transferring E911 calls, costs to train and
776 educate PSAP employees regarding E911 service or E911 equipment,
777 including fees collected by the Department of Health for the
778 certification and recertification of 911 public safety
779 telecommunicators as required under s. 401.465, and expenses
780 required to develop and maintain all information, including ALI
781 and ANI databases and other information source repositories,
782 necessary to properly inform call takers as to location address,
783 type of emergency, and other information directly relevant to
784 the E911 call-taking and transferring function. Moneys derived

785 from the fee may also be used for next-generation E911 network
 786 services, next-generation E911 database services, next-
 787 generation E911 equipment, and wireless E911 routing systems.

788 (c) The moneys may not be used to pay for any item not
 789 listed in this subsection, including, but not limited to, any
 790 capital or operational costs for emergency responses which occur
 791 after the call transfer to the responding public safety entity
 792 and the costs for constructing, leasing, maintaining, or
 793 renovating buildings, except for those building modifications
 794 necessary to maintain the security and environmental integrity
 795 of the PSAP and E911 equipment rooms.

796 Section 2. Section 365.173, Florida Statutes, is amended
 797 to read:

798 365.173 Emergency Communications Number E911 System Fund.—

799 (1) (a) All revenues derived from the fee levied on
 800 subscribers under s. 365.172 (8) must be paid by the board into
 801 the State Treasury on or before the 15th day of each month. Such
 802 moneys must be accounted for in a special fund to be designated
 803 as the Emergency Communications Number E911 System Fund, a fund
 804 created in the Technology Program, or other office as designated
 805 by the Secretary of Management Services. All revenues derived
 806 from the fee levied on prepaid wireless service under s.
 807 365.172 (9) must be paid by the Department of Revenue into the
 808 Emergency Communications Number E911 System Fund on or before
 809 the 15th day of each month. ~~and~~ For accounting purposes, the
 810 Emergency Communications Number E911 System Fund must be
 811 segregated into three ~~two~~ separate categories:

812 1. (a) The wireless category; ~~and~~

813 2.~~(b)~~ The nonwireless category; and

814 3. The prepaid wireless category.

815 (b) All moneys must be invested by the Chief Financial
816 Officer pursuant to s. 17.61. All moneys in such fund are to be
817 expended by the office for the purposes provided in this section
818 and s. 365.172. These funds are not subject to s. 215.20.

819 (2) As determined by the board pursuant to s.
820 365.172(8)(g) ~~365.172(8)(h)~~, and subject to any modifications
821 approved by the board pursuant to s. 365.172(6)(a)3. or (8)(h)
822 ~~(8)(i)~~, the moneys in the fund shall be distributed and used
823 only as follows:

824 (a) Seventy-six ~~Sixty-seven~~ percent of the moneys in the
825 wireless category shall be distributed each month to counties,
826 based on the total number of service identifiers in each county,
827 and shall be used exclusively for payment of:

828 1. Authorized expenditures, as specified in s. 365.172(10)
829 ~~365.172(9)~~.

830 2. Costs to comply with the requirements for E911 service
831 contained in the order and any future rules related to the
832 order.

833 (b) Ninety-six ~~Ninety-seven~~ percent of the moneys in the
834 nonwireless category shall be distributed each month to counties
835 based on the total number of service identifiers in each county
836 and shall be used exclusively for payment of authorized
837 expenditures, as specified in s. 365.172(10) ~~365.172(9)~~.

838 (c) Sixty-one percent of the moneys in the prepaid
839 wireless category shall be distributed each month to counties
840 based on the total number of sales in each county and shall be

841 used exclusively for payment of authorized expenditures, as
842 specified in s. 365.172(10).

843 (d)~~(e)~~ Any county that receives funds under paragraphs
844 (a), and (b), and (c) shall establish a fund to be used
845 exclusively for the receipt and expenditure of the revenues
846 collected under paragraphs (a), and (b), and (c). All fees
847 placed in the fund and any interest accrued shall be used solely
848 for costs described in subparagraphs (a)1. and 2. and may not be
849 reduced, withheld, or allocated for other purposes. The money
850 collected and interest earned in this fund shall be appropriated
851 for these purposes by the county commissioners and incorporated
852 into the annual county budget. The fund shall be included within
853 the financial audit performed in accordance with s. 218.39. The
854 financial audit shall assure that all E911 fee revenues,
855 interest, and E911 grant funding are used for payment of
856 authorized expenditures, as specified in s. 365.172(10) and as
857 specified in the E911 Board grant and special disbursement
858 programs. The county is responsible for all expenditures of
859 revenues distributed from the county E911 fund and shall submit
860 the financial audit reports to the board for review. A county
861 may carry forward up to 30 percent of the total funds disbursed
862 to the county by the board during a calendar year for
863 expenditures for capital outlay, capital improvements, or
864 equipment replacement, if such expenditures are made for the
865 purposes specified in subparagraphs (a)1. and 2.; however, the
866 30-percent limitation does not apply to funds disbursed to a
867 county under s. 365.172(6)(a)3., and a county may carry forward
868 any percentage of the funds, except that any grant provided

869 shall continue to be subject to any condition imposed by the
870 board. In order to prevent an excess recovery of costs incurred
871 in providing E911 service, a county that receives funds greater
872 than the permissible E911 costs described in s. 365.172(10)
873 ~~365.172(9)~~, including the 30-percent carryforward allowance,
874 must return the excess funds to the E911 board to be allocated
875 under s. 365.172(6)(a).

876 (e) ~~(d)~~ Twenty ~~Thirty~~ percent of the moneys in the wireless
877 category shall be distributed to wireless providers in response
878 to sworn invoices submitted to the board by wireless providers
879 to reimburse such wireless providers for the actual costs
880 incurred to provide 911 or E911 service, including the costs of
881 complying with the order. Such costs include costs and expenses
882 incurred by wireless providers to design, purchase, lease,
883 program, install, test, upgrade, operate, and maintain all
884 necessary data, hardware, and software required to provide E911
885 service. Each wireless provider shall submit to the board, by
886 August 1 of each year, a detailed estimate of the capital and
887 operating expenses for which it anticipates that it will seek
888 reimbursement under this paragraph during the ensuing state
889 fiscal year. In order to be eligible for recovery during any
890 ensuing state fiscal year, a wireless provider must submit all
891 sworn invoices for allowable purchases made within the previous
892 calendar year no later than March 31 of the fiscal year. By
893 September 15 of each year, the board shall submit to the
894 Legislature its legislative budget request for funds to be
895 allocated to wireless providers under this paragraph during the
896 ensuing state fiscal year. The budget request shall be based on

897 the information submitted by the wireless providers and
898 estimated surcharge revenues. Distributions of moneys in the
899 fund by the board to wireless providers must be fair and
900 nondiscriminatory. If the total amount of moneys requested by
901 wireless providers pursuant to invoices submitted to the board
902 and approved for payment exceeds the amount in the fund in any
903 month, wireless providers that have invoices approved for
904 payment shall receive a pro rata share of moneys in the fund and
905 the balance of the payments shall be carried over to the
906 following month or months until all of the approved payments are
907 made. The board may adopt rules necessary to address the manner
908 in which pro rata distributions are made when the total amount
909 of funds requested by wireless providers pursuant to invoices
910 submitted to the board exceeds the total amount of moneys on
911 deposit in the fund.

912 ~~(e) Notwithstanding paragraphs (a) and (d), the amount of~~
913 ~~money that remained in the wireless 911 system fund on December~~
914 ~~31, 2006, must be disbursed to wireless providers for the~~
915 ~~recovery of allowable costs incurred in previous years ending~~
916 ~~December 31, 2006, and in accordance with paragraph (d). In~~
917 ~~order to be eligible for recovered costs incurred under~~
918 ~~paragraph (d), a wireless provider must submit sworn invoices to~~
919 ~~the board by December 31, 2007. The board must disburse the~~
920 ~~designated funds in the wireless 911 system fund on or after~~
921 ~~January 1, 2008.~~

922 (f) One percent of the moneys in each category of the fund
923 shall be retained by the board to be applied to costs and
924 expenses incurred for the purposes of managing, administering,

925 and overseeing the receipts and disbursements from the fund and
926 other activities as defined in s. 365.172(6). Any funds retained
927 for such purposes in a calendar year which are not applied to
928 such costs and expenses by March 31 of the following year shall
929 be redistributed as determined by the board.

930 (g) Three ~~Two~~ percent of the moneys in each category of
931 the fund shall be used to make monthly distributions to rural
932 counties for the purpose of providing facilities and network and
933 service enhancements and assistance for the 911 or E911 systems
934 operated by rural counties and for the provision of grants by
935 the office to rural counties for upgrading and replacing E911
936 systems.

937 (h) Thirty-five percent of the moneys in the prepaid
938 wireless category shall be retained by the board to provide
939 state E911 grants to be awarded in accordance with the following
940 order of priority: By September 1, 2007, up to \$15 million of
941 the existing 911 system fund shall be available for distribution
942 by the board to the counties in order to prevent a loss in the
943 ordinary and expected time value of money caused by any timing
944 delay in remittance to the counties of wireline fees caused by
945 the one-time transfer of collecting wireline fees by the
946 counties to the board. All disbursements for this purpose must
947 be returned to the fund from the future remittance by the
948 nonwireless category.

949 1. For all large, medium, and rural counties to upgrade or
950 replace E911 systems.

951 2. For all large, medium, and rural counties to develop
952 and maintain statewide 911 routing, geographic, and management

CS/HB 807

2013

953 | information systems.

954 | 3. For all large, medium, and rural counties to develop
955 | and maintain next-generation 911 services and equipment.

956 | (i) If the wireless category has funds remaining in it on
957 | December 31 after disbursements have been made during the
958 | calendar year immediately prior to December 31, the board may
959 | disburse the excess funds in the wireless category in accordance
960 | with s. 365.172(6)(a)3.b.

961 | (3) The Legislature recognizes that the fee authorized
962 | under s. 365.172 may not necessarily provide the total funding
963 | required for establishing or providing the E911 service. It is
964 | the intent of the Legislature that all revenue from the fee be
965 | used as specified in ~~this~~ subsection (2).

966 | Section 3. This act shall take effect July 1, 2013.