

## Senate Bill No. 1142

An act relating to the emergency telephone system; amending ss. 365.171, 365.172, 365.174, F.S.; transferring state control over the Florida Emergency Telephone Act and the Wireless Emergency Communications Act from the Department of Management Services to the Office of State Technology; conforming statutory references; providing for the "911" fee to be used by certain counties to fund a pilot project for a nonemergency system; amending s. 365.173, F.S.; authorizing the State Treasurer to invest moneys in the Wireless Emergency Telephone System Fund; removing requirements that funds be held in escrow; revising the date for submission of the legislative budget request; providing an effective date.

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

Section 1. Subsections (3), (4), (5), (7), (9), (10), (12), and (13) of section 365.171, Florida Statutes, are amended to read:

365.171 Emergency telephone number "911."—

(3) DEFINITIONS.—As used in this section:

(a) "Office" ~~"Department"~~ means the State Technology Office ~~Department of Management Services~~.

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

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

(d) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

(4) STATE PLAN.—The office ~~department~~ shall develop a statewide emergency telephone number "911" system plan. The plan shall provide for:

(a) The establishment of the public agency emergency telephone communications requirements for each entity of local government in the state.

(b) A system to meet specific local government requirements. Such system shall include law enforcement, firefighting, and emergency medical services and may include other emergency services such as poison control, suicide prevention, and emergency management services.

(c) Identification of the mutual aid agreements necessary to obtain an effective "911" system.

(d) A funding provision which shall identify the cost necessary to implement the "911" system.

(e) A firm implementation schedule which shall include the installation of the "911" system in a local community within 24 months after the designated agency of the local government gives a firm order to the telephone utility for a "911" system.

The ~~office department~~ shall be responsible for the implementation and coordination of such plan. The ~~office department~~ shall adopt any necessary rules and schedules related to public agencies for implementing and coordinating such plan, pursuant to chapter 120. The public agency designated in the plan shall order such system within 6 months after publication date of the plan if the public agency is in receipt of funds appropriated by the Legislature for the implementation and maintenance of the "911" system. Any jurisdiction which has utilized local funding as of July 1, 1976, to begin the implementation of the state plan as set forth in this section shall be eligible for at least a partial reimbursement of its direct cost when, and if, state funds are available for such reimbursement.

(5) SYSTEM DIRECTOR.—The director ~~secretary~~ of the ~~office department~~ or his or her designee is designated as the director of the statewide emergency telephone number "911" system and, for the purpose of carrying out the provisions of this section, is authorized to coordinate the activities of the system with state, county, local, and private agencies. The director is authorized to 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, for the purpose of carrying out the provisions of this section. The director in implementing the system shall consult, cooperate, and coordinate with local law enforcement agencies.

(7) TELEPHONE INDUSTRY COORDINATION.—The ~~office department~~ shall coordinate with the Florida Public Service Commission which shall encourage the Florida telephone industry to activate facility modification plans for a timely "911" implementation.

(9) SYSTEM APPROVAL.—No emergency telephone number "911" system shall be established and no present system shall be expanded without prior approval of the office department.

(10) COMPLIANCE.—All public agencies shall assist the office department in their efforts to carry out the intent of this section, and such agencies shall comply with the developed plan.

(12) FEDERAL ASSISTANCE.—The secretary of the office department or his or her designee may apply for and accept federal funding assistance in the development and implementation of a statewide emergency telephone number "911" system.

(13) "911" FEE.—

(a) Following approval by referendum as set forth in paragraph (b), or following approval by a majority vote of its board of county commissioners,

a county may impose a "911" fee to be paid by the local exchange subscribers within its boundaries served by the "911" service. Proceeds from the "911" fee shall be used only for "911" expenditures as set forth in subparagraph 6. The manner of imposing and collecting said payment shall be as follows:

1. At the request of the county subscribing to "911" service, the telephone company shall, insofar as is practicable, bill the "911" fee to the local exchange subscribers served by the "911" service, on an individual access line basis, at a rate not to exceed 50 cents per month per line (up to a maximum of 25 access lines per account bill rendered). However, the fee may not be assessed on any pay telephone in this state. A county collecting the fee for the first time may collect the fee for no longer than 36 months without initiating the acquisition of its "911" equipment.

2. Fees collected by the telephone company pursuant to subparagraph 1. shall be returned to the county, less the costs of administration retained pursuant to paragraph (c). The county shall provide a minimum of 90 days' written notice to the telephone company prior to the collection of any "911" fees.

3. Any county that currently has an operational "911" system or that is actively pursuing the implementation of a "911" system shall establish a fund to be used exclusively for receipt and expenditure of "911" fee revenues collected pursuant to this section. All fees placed in said fund, and any interest accrued thereupon, shall be used solely for "911" costs described in subparagraph 6. The money collected and interest earned in this fund shall be appropriated for "911" purposes by the county commissioners and incorporated into the annual county budget. The county shall annually have a financial audit performed on this fund, in accordance with s. 11.45. A report of the audit shall be forwarded to the office department within 60 days of its completion. A county may carry forward on an annual basis unspent moneys in the fund for expenditures allowed by this section, or it may reduce its fee. However, in no event shall a county carry forward more than 10 percent of the "911" fee billed for the prior year. The amount of moneys carried forward each year may be accumulated in order to allow for capital improvements described in this subsection. The carryover shall be documented by resolution of the board of county commissioners expressing the purpose of the carryover or by an adopted capital improvement program identifying projected expansion or replacement expenditures for "911" equipment and service features, or both. In no event shall the "911" fee carryover surplus moneys be used for any purpose other than for the "911" equipment, service features, and installation charges authorized in subparagraph 6. Nothing in this section shall prohibit a county from using other sources of revenue for improvements, replacements, or expansions of its "911" system. A county may increase its fee for purposes authorized in this section. However, in no case shall the fee exceed 50 cents per month per line. All current "911" fees shall be reported to the office department within 30 days of the start of each county's fiscal period. Any fee adjustment made by a county shall be reported to the office department. A county shall give the telephone company a 90-day written notice of such fee adjustment.

4. The telephone company shall have no obligation to take any legal action to enforce collection of the "911" fee. The telephone company shall

provide quarterly to the county a list of the names, addresses, and telephone numbers of any and all subscribers who have identified to the telephone company their refusal to pay the "911" fee.

5. The county subscribing to "911" service shall remain liable to the telephone company for any "911" service, equipment, operation, or maintenance charge owed by the county to the telephone company.

As used in this paragraph, "telephone company" means an exchange telephone service provider of "911" service or equipment to any county within its certificated area.

6. It is the intent of the Legislature that the "911" fee authorized by this section to be imposed by counties will not necessarily provide the total funding required for establishing or providing the "911" service. For purposes of this section, "911" service includes the functions of database management, call taking, location verification, and call transfer. The following costs directly attributable to the establishment and/or provision of "911" service are eligible for expenditure of moneys derived from imposition of the "911" fee authorized by this section: the acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and "911" service features, as defined in the Florida Public Service Commission's lawfully approved "911" and related tariffs and/or the acquisition, installation, and maintenance of other "911" equipment, including call answering equipment, call transfer equipment, ANI controllers, ALI controllers, ANI displays, ALI displays, station instruments, "911" telecommunications systems, teleprinters, logging recorders, instant playback recorders, telephone devices for the deaf (TDD) used in the "911" system, PSAP backup power systems, consoles, automatic call distributors, and interfaces (hardware and software) for computer-aided dispatch (CAD) systems; salary and associated expenses for "911" call takers for that portion of their time spent taking and transferring "911" calls; salary and associated expenses for a county to employ a full-time equivalent "911" coordinator position and a full-time equivalent staff assistant position per county for the portion of their time spent administrating the "911" system; training costs for PSAP call takers in the proper methods and techniques used in taking and transferring "911" calls; and expenses required to develop and maintain all information (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 "911" call-taking and transferring function; and, in a county defined in s. 125.011(1), such expenses related to a nonemergency "311" system, or similar nonemergency system, which improves the overall efficiency of an existing "911" system or reduces "911" emergency response time for a 2-year pilot project that ends June 30, 2003. However, no wireless telephone service provider shall be required to participate in this pilot project or to otherwise implement a nonemergency "311" system or similar nonemergency system. The "911" fee revenues shall not be used to pay for any item not listed, including, but not limited to, any capital or operational costs for emergency responses which occur after the call transfer to the responding public safety entity and the costs for constructing buildings, leasing buildings, maintaining buildings, or renovating

buildings, except for those building modifications necessary to maintain the security and environmental integrity of the PSAP and “911” equipment rooms.

7. It is the goal of the Legislature that enhanced “911” service be available throughout the state. Expenditure by counties of the “911” fees authorized by this section should support this goal to the greatest extent feasible within the context of local service needs and fiscal capability. Nothing in this section shall be construed to prohibit two or more counties from establishing a combined emergency “911” telephone service by interlocal agreement and utilizing the “911” fees authorized by this section for such combined “911” service.

(b) If a county elects to obtain approval of a “911” fee by referendum, it shall arrange to place a question on the ballot at the next regular or special election to be held within the county, substantially as follows:

.... I am in favor of the “911” emergency telephone system fee.

.... I am against the “911” emergency telephone system fee.

If a majority of the electors voting on the question approve the fee, it may be imposed by the county.

(c) Any county imposing a “911” fee in accordance with the provisions of this subsection shall allow the telephone company to retain as an administrative fee an amount equal to 1 percent of the total “911” fee collected by the telephone company.

Section 2. Paragraph (d) of subsection (2), paragraph (e) of subsection (3), subsection (4), paragraph (a) of subsection (5), and paragraphs (c) and (d) of subsection (6) of section 365.172, Florida Statutes, are amended to read:

365.172 Wireless emergency telephone number “E911.”—

(2) FINDINGS, PURPOSE, AND LEGISLATIVE INTENT.—The Legislature finds and declares that:

(d) The revenues generated by the E911 fee imposed under this section are required to fund the efforts of the counties, the Wireless 911 Board under the State Technology Office ~~Department of Management Services~~, and commercial mobile radio service providers to improve the public health, safety, and welfare and serve a public purpose by providing emergency telephone assistance through wireless communications.

(3) DEFINITIONS.—As used in this section and ss. 365.173 and 365.174, the term:

(e) “Office” ~~“Department”~~ means the State Technology Office ~~Department of Management Services~~.

(4) POWERS AND DUTIES OF THE OFFICE DEPARTMENT.—The office department shall oversee the administration of the fee imposed on subscribers of statewide E911 service under subsection (8).

## (5) THE WIRELESS 911 BOARD.—

(a) The Wireless 911 Board is established to administer, with oversight by the office department, the fee imposed under subsection (8), including receiving revenues derived from the fee; distributing portions of such revenues to providers, counties, and the office department; accounting for receipts, distributions, and income derived by the funds maintained in the fund; and providing annual reports to the Governor and the Legislature for submission by the office department on amounts collected and expended, the purposes for which expenditures have been made, and the status of wireless E911 service in this state. In order to advise and assist the office department in carrying out the purposes of this section, the board, which shall have the power of a body corporate, shall have the powers enumerated in subsection (6).

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

(c) By February 28 of each year, the board shall prepare a report for submission by the office department to the Governor, the President of the Senate, and the Speaker of the House of Representatives which reflects, for the immediately preceding calendar year, the quarterly and annual receipts and disbursements of moneys in the fund, the purposes for which disbursements of moneys from the fund have been made, and the availability and status of implementation of E911 service in this state.

(d) By February 28, 2001, the board shall undertake and complete a study for submission by the office department to the Governor, the President of the Senate, and the Speaker of the House of Representatives which addresses:

1. The total amount of E911 fee revenues collected by each provider, the total amount of expenses incurred by each provider to comply with the order, and the amount of moneys on deposit in the fund, all as of December 1, 2000.

2. Whether the amount of the E911 fee and the allocation percentages set forth in s. 365.173 should be adjusted to comply with the requirements of the order, and, if so, a recommended adjustment to the E911 fee.

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

Section 3. Subsections (1) and (2) of section 365.173, Florida Statutes, are amended to read:

## 365.173 Wireless Emergency Telephone System Fund.—

(1) All revenues derived from the E911 fee levied on subscribers under s. 365.172 must be paid into the State Treasury on or before the 15th day of each month. Such moneys must be accounted for in a special fund to be designated as the Wireless Emergency Telephone System Fund, a fund created in the State Technology Office and must be invested by the State Treasurer pursuant to s. 18.125 Department of Management Services as an insured, interest-bearing account. All moneys in such fund are to be expended by the State Technology Office Department of Management Services

for the purposes provided in this section and s. 365.172. These funds are not subject to s. 215.20.

(2) Subject to any modifications approved by the board pursuant to s. 365.172(8)(c), the moneys in the fund shall be distributed and used only as follows:

(a) Forty-four percent of the moneys shall be ~~held in escrow in an insured, interest-bearing account and~~ distributed each month to counties, based on the total number of wireless subscriber billing addresses in each county, for payment of:

1. Recurring costs of providing 911 or E911 service, as provided by s. 365.171(13)(a)6.

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

A county may carry forward, for up to 3 successive calendar years, up to 30 percent of the total funds disbursed to the county by the board during a calendar year for expenditures for capital outlay, capital improvements, or equipment replacement, if such expenditures are made for the purposes specified in this paragraph.

(b) Fifty-four percent of the moneys shall be ~~held in escrow in an insured, interest-bearing account and~~ distributed in response to sworn invoices submitted to the board by providers to reimburse such providers for the actual costs incurred to provide 911 or E911 service, including the costs of complying with the order. Such costs include costs and expenses incurred by providers to design, purchase, lease, program, install, test, upgrade, operate, and maintain all necessary data, hardware, and software required to provide E911 service. Up to 2 percent of the funds allocated to providers shall be retained by the board to be applied to costs and expenses incurred for the purposes of managing, administering, and overseeing the receipts and disbursements from the fund. Any funds retained for such purposes in a calendar year which are not applied to such costs and expenses by March 31 of the following year shall be distributed to providers pursuant to this paragraph. Beginning in state fiscal year 2000-2001, each provider shall submit to the board, by August 1 of each year, a detailed estimate of the capital and operating expenses for which it anticipates that it will seek reimbursement under this paragraph during the ensuing state fiscal year. By September 15 ~~1~~ of each year, the board shall submit to the Legislature its legislative budget request for funds to be allocated to providers under this paragraph during the ensuing state fiscal year. The budget request shall be based on the information submitted by the providers and estimated surcharge revenues. Distributions of moneys in the fund by the board to providers must be fair and nondiscriminatory. If the total amount of moneys requested by providers pursuant to invoices submitted to the board and approved for payment exceeds the amount in the fund in any month, providers that have invoices approved for payment shall receive a pro rata share of moneys in the fund and the balance of the payments shall be carried over to the following month or months until all of the approved payments are made. The

board may adopt rules necessary to address the manner in which pro rata distributions are made when the total amount of funds requested by providers pursuant to invoices submitted to the board exceeds the total amount of moneys on deposit in the fund.

(c) Two percent of the moneys shall be used to make monthly distributions to rural counties for the purpose of providing facilities and network and service enhancements and assistance for the 911 or E911 systems operated by rural counties and for the provision of reimbursable loans and grants by the office department to rural counties for upgrading 911 systems.

The Legislature recognizes that the wireless E911 fee authorized under s. 365.172 will not necessarily provide the total funding required for establishing or providing the 911 service. It is the intent of the Legislature that all revenue from the fee be used as specified in s. 365.171(13)(a)6.

Section 4. Subsection (1) of section 365.174, Florida Statutes, is amended to read:

365.174 Proprietary confidential business information.—

(1) All proprietary confidential business information submitted by a provider to the board or the office department, including the name and billing or service addresses of service subscribers, and trade secrets as defined by s. 812.081, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Statistical abstracts of information collected by the board or the office department may be released or published, but only in a manner that does not identify or allow identification of subscribers or their service numbers or of revenues attributable to any provider.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor June 1, 2001.

Filed in Office Secretary of State June 1, 2001.