

Council Substitute for
Council Substitute for House Bill No. 919

An act relating to emergency communications systems; amending s. 365.171, F.S.; redesignating the Florida Emergency Telephone Act as the “Florida Emergency Communications Number E911 State Plan Act”; providing legislative intent; redefining the term “office” to mean the Technology Program within the Department of Management Services; revising the duties of the office regarding the state E911 system plan; revising provisions for content of the plan; designating the secretary as the director of the statewide emergency communications number E911 system; removing a provision authorizing the director to employ certain persons; directing the Public Service Commission to adopt rules relating to coin-free 911 calls to be followed by the telecommunications industry; requiring approval of the office for establishing or expanding an emergency communications number E911 system; removing a provision for existing emergency telephone service; authorizing the secretary of the department to apply for and accept federal funding assistance; removing provisions relating to imposition and collection of the 911 fee and to the indemnification of local telephone companies; removing a penalty for reporting false information that may result in an emergency response; amending s. 365.172, F.S.; redesignating the Wireless Emergency Communications Act as the “Emergency Communications Number E911 Act”; providing legislative intent; revising definitions; providing for administration of the fees collected; redesignating the Wireless 911 Board as the E911 Board; revising membership, powers, duties, and responsibilities of the board; redesignating the Wireless E911 Fee as the E911 Fee; requiring a study relating to collecting the fee on the sale of prepaid wireless service; revising provisions for use of revenue collected; providing for certain disbursements; providing for rates and collection from consumers of voice communications services; providing for the authorized use of the fees collected; providing for indemnification and limitation of liability for local exchange carriers; providing penalties for the misuse of the E911 system; exempting prepaid calling arrangements from application of specified provisions relating to gift certificates and credit memos; authorizing additional positions and providing appropriations; providing an effective date.

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

Section 1. Section 365.171, Florida Statutes, is amended to read:

365.171 Emergency communications telephone number E911 state plan.
~~“911.”~~

(1) SHORT TITLE.—This section ~~may be shall be known and~~ cited as the “Florida Emergency Communications Number E911 State Plan Telephone Act.”

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature that the communications number “911” be the designated emergency communications number. A public safety agency may not advertise or otherwise promote the use of any communications number for emergency response services other than “911.” It is further the intent of the Legislature to establish and implement and continually update a cohesive statewide emergency communications telephone number “E911” “911” plan for enhanced 911 services which will provide citizens with rapid direct access to public safety agencies by accessing dialing the telephone number “911” with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

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

(a) “Office” means the Technology Program within the Department of Management Services, as designated by the secretary of the department State Technology Office.

(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 shall develop, maintain, and implement appropriate modifications for a statewide emergency communications E911 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 E911 “911” system.

(d) A funding provision that identifies which shall identify the cost necessary to implement the E911 “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 shall be responsible for the implementation and coordination of such plan. The office shall adopt any necessary rules and schedules related to public agencies for implementing and coordinating the 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 secretary of the department director of the office or his or her designee is designated as the director of the statewide emergency communications telephone number E911 “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.~~

(6) REGIONAL SYSTEMS.—~~Nothing in This section does not shall be construed to prohibit or discourage the formation of multijurisdictional or regional systems; and any system established pursuant to this section may include the jurisdiction, or any portion thereof, of more than one public agency. It is the intent of the Legislature that E911 service be available throughout the state. Expenditure by counties of the E911 fee authorized and imposed under s. 365.172 should support this intent to the greatest extent feasible within the context of local service needs and fiscal capability. This section does not prohibit two or more counties from establishing a combined emergency E911 communications service by an interlocal agreement and using the fees authorized and imposed by s. 365.172 for such combined E911 service.~~

(7) TELECOMMUNICATIONS TELEPHONE INDUSTRY COORDINATION.—The office shall coordinate with the Florida Public Service Commission which shall encourage the Florida telecommunications telephone industry to activate facility modification plans for a timely E911 “911” implementation.

(8) COIN TELEPHONES.—The Florida Public Service Commission shall establish rules to be followed by the telecommunications companies telephone utilities in this state designed toward encouraging the provision of coin-free dialing of “911” calls wherever economically practicable and in the public interest.

(9) SYSTEM APPROVAL.—No emergency communications telephone number E911 “911” system shall be established and no present system shall be expanded without prior approval of the office.

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

~~(11) EXISTING EMERGENCY TELEPHONE SERVICE.—Any emergency telephone number established by any local government or state agency prior to July 1, 1974, using a number other than “911” shall be changed to “911” on the same implementation schedule provided in paragraph (4)(e).~~

~~(11)(12) FEDERAL ASSISTANCE.—The secretary of the department of fire or his or her designee may apply for and accept federal funding assistance in the development and implementation of a statewide emergency communications telephone number E911 “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. Such fund shall be included within the financial audit performed in accordance with s. 218.39. A report of the audit shall be forwarded to the office 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 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. 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. No wireless telephone service provider shall be required to participate in any 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.

(14) ~~INDEMNIFICATION AND LIMITATION OF LIABILITY.~~ All local governments are authorized to undertake to indemnify the telephone company against liability in accordance with the telephone company’s lawfully filed tariffs. Regardless of any indemnification agreement, a telephone company or commercial mobile radio service provider as defined in s. 364.02 shall not be liable for damages resulting from or in connection with “911” service or identification of the telephone number, address, or name associated with any person accessing “911” service, unless the telephone company or commercial radio service provider acted with malicious purpose or in a

manner exhibiting wanton and willful disregard of human rights, safety, or property in providing such services.

~~(12)~~(15) CONFIDENTIALITY OF RECORDS.—Any record, recording, or information, or portions thereof, obtained by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency service or reporting an emergency by accessing an emergency communications E911 telephone number “911” system is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that such record or information may be disclosed to a public safety agency. The exemption applies only to the name, address, telephone number or personal information about, or information which may identify any person requesting emergency services or reporting an emergency while such information is in the custody of the public agency or public safety agency providing emergency services. A telecommunications telephone company or commercial mobile radio service provider shall not be liable for damages to any person resulting from or in connection with such telephone company’s or commercial mobile radio service provider’s provision of any lawful assistance to any investigative or law enforcement officer of the State of Florida or political subdivisions thereof, of the United States, or of any other state or political subdivision thereof, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer unless the telecommunications telephone company or commercial mobile radio service provider acted in a wanton and willful manner.

~~(16)~~ FALSE “911” CALLS.—Whoever accesses the number “911” for the purpose of making a false alarm or complaint or reporting false information which could result in the emergency response of any public safety agency is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Section 365.172, Florida Statutes, is amended to read:

365.172 Wireless Emergency communications telephone number “E911.”—

(1) SHORT TITLE.—This section may be cited as the “Wireless Emergency Communications Number E911 Act.”

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

(a) The mobile nature of wireless communications service creates complexities for providing 911 emergency services.

(b) Wireless telephone service providers are required by the Federal Communications Commission to provide wireless enhanced 911 (E911) service in the form of automatic location identification and automatic number identification pursuant to the terms and conditions set forth in an order issued by the Federal Communications Commission.

~~(c) Wireless telephone service providers and counties that operate 911 and E911 systems require adequate funding to recover the costs of designing, purchasing, installing, testing, and operating enhanced facilities, systems, and services necessary to comply with the requirements for E911 services mandated by the Federal Communications Commission and to maximize the availability of E911 services throughout this state.~~

~~(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, 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.~~

~~(e) It is necessary and beneficial to levy a fee on wireless services and to create the Wireless 911 Board to administer fee proceeds as provided in this section.~~

(f) It is the intent of the Legislature to:

~~(a)1. Establish and implement a comprehensive statewide emergency telecommunications telephone number system that will provide users of voice communications services within the state wireless telephone users with rapid direct access to public safety agencies by accessing dialing the telephone number "911."~~

~~(b)2. Provide funds to counties local governments to pay certain costs associated with their E911 or the cost of installing and operating wireless 911 systems, to contract for E911 services, and to reimburse wireless telephone service providers for costs incurred to provide 911 or E911 enhanced 911 services.~~

~~(c)3. Levy a reasonable fee on users of voice communications services, unless otherwise provided in this section, subscribers of wireless telephone service to accomplish these purposes.~~

~~(d) Provide for an E911 board to administer the fee, with oversight by the office, in a manner that is competitively and technologically neutral as to all voice communications services providers.~~

~~(e) Ensure that the fee established is used exclusively for recovery by wireless providers and by counties for costs associated with developing and maintaining E911 systems and networks in a manner that is competitively and technologically neutral as to all voice communications services providers.~~

It is further the intent of the Legislature that the fee authorized or imposed by this section not necessarily provide the total funding required for establishing or providing E911 service.

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

~~(a) “Active prepaid wireless telephone” means a prepaid wireless telephone that has been used by the customer during the month to complete a telephone call for which the customer’s card or balance was decremented.~~

~~(a)(b)~~ “Answering point” means the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.

(b) “Authorized expenditures” means expenditures of the fee, as specified in subsection (9).

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

~~(d) “Automatic number identification” means the capability of the E911 service which enables the automatic display of the 10-digit service number used to place a 911 call.~~

(e) “Board” or “E911 Board” means the board of directors of the E911 Wireless 911 Board established in subsection (5).

~~(f) “Building permit review” means a review for compliance with building construction standards adopted by the local government under chapter 553 and does not include a review for compliance with land development regulations.~~

~~(g) “Collocation” means the situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent antennae. The term includes the ground, platform, or roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the location and operation of the antennae.~~

~~(h) “Designed service” means the configuration and manner of deployment of service the wireless provider has designed for an area as part of its network.~~

(i) “E911” is the designation for ~~an~~ a wireless enhanced 911 system or wireless enhanced 911 service that is an emergency telephone system or service that provides a subscriber with wireless 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated, or as otherwise provided in the state plan under s. 365.171, and that provides for automatic number identification and automatic location-identification features. E911 service provided by a wireless provider means E911 as defined in the order in accordance with the requirements of the order.

~~(j) “Existing structure” means a structure that exists at the time an application for permission to place antennae on a structure is filed with a local government. The term includes any structure that can structurally support the attachment of antennae in compliance with applicable codes.~~

(k) “Fee” means the E911 fee authorized and imposed under subsection (8).

(l) “Fund” means the Wireless Emergency Communications Number 911 Telephone System Fund established in s. 365.173 and maintained under this section for the purpose of recovering the costs associated with providing 911 service or E911 service, including the costs of implementing the order. The fund shall be segregated into wireless and nonwireless categories.

(m) “Historic building, structure, site, object, or district” means any building, structure, site, object, or district that has been officially designated as a historic building, historic structure, historic site, historic object, or historic district through a federal, state, or local designation program.

(n) “Land development regulations” means any ordinance enacted by a local government for the regulation of any aspect of development, including an ordinance governing zoning, subdivisions, landscaping, tree protection, or signs, the local government’s comprehensive plan, or any other ordinance concerning any aspect of the development of land. The term does not include any building construction standard adopted under and in compliance with chapter 553.

(o) “Local exchange carrier” means a “competitive local exchange telecommunications company” or a “local exchange telecommunications company” as defined in s. 364.02.

(p) “Local government” means any municipality, county, or political subdivision or agency of a municipality, county, or political subdivision.

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

(r) “Mobile telephone number” or “MTN” means the telephone number assigned to a wireless telephone at the time of initial activation.

(s) “Nonwireless category” means the revenues to the fund received from voice communications services providers other than wireless providers.

~~(t)(s)~~ “Office” means the Technology Program within the Department of Management Services, as designated by the secretary of the department State Technology Office.

~~(u)(t)~~ “Order” means:

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

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

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

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

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

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

~~(v)(u) “Prepaid calling arrangements” has the same meaning as defined in s. 212.05(1)(e) wireless telephone service” means wireless telephone service that is activated in advance by payment for a finite dollar amount of service or for a finite set of minutes that terminate either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless additional payments are made.~~

~~(v) “Provider” or “wireless provider” means a person or entity who provides service and either:~~

~~1. Is subject to the requirements of the order; or~~

~~2. Elects to provide wireless 911 service or E911 service in this state.~~

~~(w) “Public agency” means the state and any municipality, county, municipal corporation, or other governmental entity, 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.~~

~~(x) “Public safety agency” means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.~~

~~(y) “Rural county” means any county that has a population of fewer than 75,000.~~

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

~~(z) “Service” means “commercial mobile radio service” as provided under ss. 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, August 10, 1993, 107 Stat. 312. The term “service” includes the term “wireless” and service provided by any wireless real-time two-way wire communication device, including radio-telephone communications used in cellular telephone service; personal communications service; or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications~~

~~service, or a network radio access line. The term does not include wireless providers that offer mainly dispatch service in a more localized, noncellular configuration; providers offering only data, one-way, or stored voice services on an interconnected basis; providers of air-to-ground services; or public coast stations.~~

~~(aa) “Service number” means the unique 10-digit wireless telephone number assigned to a service subscriber.~~

~~(bb) “Sufficient positive balance” means a dollar amount greater than or equal to the monthly wireless surcharge amount.~~

~~(aa)(ee) “Tower” means any structure designed primarily to support a wireless provider’s antennae.~~

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

- ~~1. The service enables real-time, two-way voice communications;~~
- ~~2. The service requires a broadband connection from the user’s locations;~~
- ~~3. The service requires IP-compatible customer premises equipment; and~~
- ~~4. The service offering allows users generally to receive calls that originate on the public switched telephone network and to terminate calls on the public switched telephone network.~~

~~(cc) “Voice communications services provider” or “provider” means any person or entity providing voice communications services, except that the term does not include any person or entity that resells voice communications service and was assessed the fee by its resale supplier.~~

~~(dd) “Wireless 911 system” or “wireless 911 service” means an emergency telephone system or service that provides a subscriber with the ability to reach an answering point by accessing the digits “911.”~~

~~(ee) “Wireless category” means the revenues to the fund received from a wireless provider.~~

~~(ff)(dd) “Wireless communications facility” means any equipment or facility used to provide service and may include, but is not limited to, antennae, towers, equipment enclosures, cabling, antenna brackets, and other such equipment. Placing a wireless communications facility on an existing structure does not cause the existing structure to become a wireless communications facility.~~

(gg) “Wireless provider” means a person who provides wireless service and:

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

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

~~(cc) “Wireless 911 system” or “wireless 911 service” means an emergency telephone system or service that provides a subscriber with the ability to reach an answering point by dialing the digits “911.” A wireless 911 system is complementary to a wired 911 system as provided for in s. 365.171.~~

~~(4) POWERS AND DUTIES OF THE OFFICE.—The office shall oversee the administration of the fee authorized and imposed on subscribers of voice communications services statewide E911 service under subsection (8).~~

~~(5) THE E911 WIRELESS 911 BOARD.—~~

~~(a) The E911 Wireless 911 Board is established to administer, with oversight by the office, the fee imposed under subsection (8), including receiving revenues derived from the fee; distributing portions of the such revenues to wireless providers, counties, and the office; 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 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 in carrying out the purposes of this section, the board, which shall have the power of a body corporate, has shall have the powers enumerated in subsection (6).~~

~~(b) The board shall consist of nine seven members, one of whom must be the system director designated under s. 365.171(5), or his or her designee, who shall serve as the chair of the board. The remaining eight six members of the board shall be appointed by the Governor and must be composed of four three county 911 coordinators, consisting of a representative from a rural county, a representative from a medium county, a representative from a large county, and an at-large representative recommended by the Florida Association of Counties in consultation with the county 911 coordinators; two local exchange carrier members, one of which must be the local exchange~~

carrier having the greatest number of access lines in the state; and ~~two~~ three members from the wireless telecommunications industry recommended by the Florida Telecommunications Industry Association in consultation with the wireless telecommunications industry. In recommending members from the wireless telecommunications industry, consideration must be given to wireless providers who are not affiliated with local exchange carriers. Not more than one member may be appointed to represent any single provider on the board.

(c) The system director, designated under s. 365.171(5), or his or her designee, must be a permanent member of the board. Each of the remaining ~~eight~~ six members of the board shall be appointed to a 4-year term and may not be appointed to more than two successive terms. However, for the purpose of staggering terms, two of the original board members shall be appointed to terms of 4 years, two shall be appointed to terms of 3 years, and ~~four~~ two shall be appointed to terms of 2 years, as designated by the Governor. A vacancy on the board shall be filled in the same manner as the original appointment.

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

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

(a) The board shall:

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

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

b. ~~Revenues in the fund collected and deposited into the fund for distribution as provided in s. 365.173(2)(b), but~~ which have not been disbursed because sworn invoices as required by s. 365.173(2)(d) ~~s. 365.173(2)(b)~~ have not been submitted to the board, may be used ~~utilized~~ by the board as needed to provide grants to ~~rural counties and loans to medium~~ counties for the purpose of upgrading E911 systems. The counties must use the funds only for capital expenditures directly attributable to establishing and provisioning E911 services, which may include next-generation deployment. Prior to the distribution of grants, the board shall provide 90 days' written notice to all counties and publish electronically an approved application process. County grant applications shall be prioritized based on the availability of

funds, current system life expectancy, system replacement needs, and Phase II compliance per the Federal Communications Commission. No grants will be available to any county for next-generation deployment until all counties are Phase II complete. Grants provided to rural counties would be in addition to disbursements provided under s. 365.173(2)(c). Loans provided to medium counties shall be based on county hardship criteria as determined and approved by the board. Revenues utilized for this purpose shall be fully repaid to the fund in a manner and under a timeframe as determined and approved by the board. The board shall take all actions within its authority to ensure that county recipients of such grants use and loans utilize these funds only for the purpose under which they have been provided and may take any actions within its authority to secure county repayment of grant and loan revenues upon determination that the funds were not used utilized for the purpose under which they were provided.

c. The board shall reimburse all costs of a wireless provider in accordance with s. 365.173(2)(d) before taking any action to transfer additional funds.

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

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

4. Review documentation submitted by wireless providers which reflects current and projected funds derived from the ~~E911~~ fee, and the expenses incurred and expected to be incurred, in order to comply with the E911 service requirements contained in the order for the purposes of:

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

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

c. Ascertaining the projected costs of compliance with the requirements of the order and projected collections of the ~~E911~~ fee.

d. Implementing changes to the allocation percentages or adjusting ~~re-~~
~~ducing~~ the E911 fee under paragraph ~~(8)(i)~~ ~~(8)(e)~~.

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

6. Hire and retain employees, which may include an independent execu-
tive director who shall possess experience in the area of telecommunications
and emergency 911 issues, for the purposes of performing the technical and
administrative functions for the board.

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

~~8. Take all necessary and reasonable steps by July 1, 2000, to secure~~
~~appropriate information and reports from providers and otherwise perform~~
~~all of the functions that would be performed by an independent accounting~~
~~firm prior to completing the request for proposals process under subsection~~
~~(7).~~

8.9. Sue and be sued, and appear and defend in all actions and proceed-
ings, in its corporate name to the same extent as a natural person.

9.10. Adopt, use, and alter a common corporate seal.

10.11. Elect or appoint the officers and agents that are required by the
affairs of the board.

11.12. The board may adopt rules under ss. 120.536(1) and 120.54 to
implement this section and ss. 365.173 and 365.174.

12.13. Provide coordination, support, and technical assistance to coun-
ties to promote the deployment of advanced 911 and E911 systems in the
state.

13.14. Provide coordination and support for educational opportunities
related to E911 911 issues for the E911 911 community in this state.

14.15. Act as an advocate for issues related to E911 911 system func-
tions, features, and operations to improve the delivery of E911 911 services to the
residents of and visitors to this state.

15.16. Coordinate input from this state at national forums and associa-
tions, to ensure that policies related to E911 911 systems and services are
consistent with the policies of the E911 911 community in this state.

16.17. Work cooperatively with the system director established in s.
365.171(5) to enhance the state of E911 911 services in this state and to

provide unified leadership for all ~~E911~~ 911 issues through planning and coordination.

~~17.18.~~ Do all acts and things necessary or convenient to carry out the powers granted in this section in a manner that is competitively and technologically neutral as to all voice communications services providers, including, but not limited to, consideration of emerging technology and related cost savings, while taking into account embedded costs in current systems.

~~18.19.~~ Have the authority to secure the services of an independent, private attorney via invitation to bid, request for proposals, invitation to negotiate, or professional contracts for legal services already established at the Division of Purchasing of the Department of Management Services.

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

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

1. The annual receipts, including the total amount of E911 fee revenues collected by each provider, the total disbursements of money in the fund, including the amount of fund-reimbursed expenses incurred by each wireless 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 have been or should be adjusted to comply with the requirements of the order or other provisions of this chapter, and the reasons for making or not making, if so, a recommended adjustment to the E911 fee.

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

4. The status of E911 services in this state.

(7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING FIRM.—

(a) The board shall issue a request for proposals as provided in chapter 287 for the purpose of retaining an independent accounting firm. The independent accounting firm shall perform all material administrative and accounting tasks and functions required for administering the ~~E911~~ fee. The request for proposals must include, but need not be limited to:

1. A description of the scope and general requirements of the services requested.
2. A description of the specific accounting and reporting services required for administering the fund, including processing checks and distributing funds as directed by the board under s. 365.173.
3. A description of information to be provided by the proposer, including the proposer's background and qualifications and the proposed cost of the services to be provided.

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

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

(8) ~~WIRELESS~~ E911 FEE.—

(a) Each voice communications services ~~home service~~ provider shall collect the a monthly fee described in this subsection imposed on each customer whose place of primary use is within this state. Each provider, as part of its monthly billing process, shall bill the fee as follows. The fee shall not be assessed on any pay telephone in the state.

1. Each local exchange carrier shall bill the fee to the local exchange subscribers on a service-identifier basis, up to a maximum of 25 access lines per account bill rendered.

2. Except in the case of prepaid wireless service, each wireless provider shall bill the fee to a subscriber on a per-service-identifier basis for service identifiers whose primary place of use is within this state. Before July 1, 2009, the fee shall not be assessed on or collected from a provider with respect to an end user's service if that end user's service is a prepaid calling arrangement that is subject to s. 212.05(1)(e).

a. The board shall conduct a study to determine whether it is feasible to collect E911 fees from the sale of prepaid wireless service. If, based on the findings of the study, the board determines that a fee should not be collected from the sale of prepaid wireless service, it shall report its findings and

recommendation to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2008. If the board determines that a fee should be collected from the sale of prepaid wireless service, the board shall collect the fee beginning July 1, 2009.

b. For purposes of this section, the term:

(I) “Prepaid wireless service” means the right to access telecommunications services that must be paid for in advance and is sold in predetermined units or dollars enabling the originator to make calls such that the number of units or dollars declines with use in a known amount.

(II) “Prepaid wireless service providers” includes those persons who sell prepaid wireless service regardless of its form, either as a retailer or reseller.

c. The study must include an evaluation of methods by which E911 fees may be collected from end users and purchasers of prepaid wireless service on an equitable, efficient, competitively neutral, and nondiscriminatory basis and must consider whether the collection of fees on prepaid wireless service would constitute an efficient use of public funds given the technological and practical considerations of collecting the fee based on the varying methodologies prepaid wireless service providers and their agents use in marketing prepaid wireless service.

d. The study must include a review and evaluation of the collection of E911 fees on prepaid wireless service at the point of sale within the state. This evaluation must be consistent with the collection principles of end user charges such as those in s. 212.05(1)(e).

e. No later than 90 days after this section becomes law, the board shall require all prepaid wireless service providers, including resellers, to provide the board with information that the board determines is necessary to discharge its duties under this section, including information necessary for its recommendation, such as total retail and reseller prepaid wireless service sales.

f. All subscriber information provided by a prepaid wireless service provider in response to a request from the board while conducting this study is subject to s. 365.174.

g. The study shall be conducted by an entity competent and knowledgeable in matters of state taxation policy if the board does not possess that expertise. The study must be paid from the moneys distributed to the board for administrative purposes under s. 365.173(2)(f) but may not exceed \$250,000.

3. All voice communications services providers not addressed under subparagraphs 1. and 2. shall bill the fee on a per-service-identifier basis for service identifiers whose primary place of use is within the state up to a maximum of 25 service identifiers for each account bill rendered.

The provider may list the fee as a separate entry on each bill, in which case the fee must be identified as a fee for E911 services. A provider shall remit

the fee to the board only if the fee is paid by the subscriber. If a provider receives a partial payment for a monthly bill from a subscriber, the amount received shall first be applied to the payment due the provider for providing voice communications service.

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

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

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

(e) Effective September 1, 2007, voice communications services providers billing the fee to subscribers shall deliver revenues from the fee 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 service identifiers in each county. Each wireless provider and other applicable provider identified in subparagraph (a)3. shall report the number of service identifiers for subscribers whose place of primary use is in each county. All provider subscriber information provided to the board is subject to s. 365.174. If a provider chooses to remit any fee amounts to the board before they are paid by the subscribers, a provider may apply to the board for a refund of, or may take a credit for, any such fees remitted to the board which are not collected by the provider within 6 months following the month in which the fees are charged off for federal income tax purposes as bad debt.

(f) The rate of the fee shall be set by the board after considering the factors set forth in paragraphs (h) and (i), but may not exceed 50 cents per month per each service identifier number, beginning August 1, 1999. The fee shall apply uniformly and be imposed throughout the state, except for those counties that, before July 1, 2007, had adopted an ordinance or resolution establishing a fee less than 50 cents per month per access line. In those counties the fee established by ordinance may be changed only to the uniform statewide rate no sooner than 30 days after notification is made by the county's board of county commissioners to the board.

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

(h) No later than November 1, 2007, the board may adjust the allocation percentages for distribution of the fund as provided in s. 365.173. When setting the percentages and contemplating any adjustments to the fee, the board shall consider the following:

1. The revenues currently allocated for wireless service provider costs for implementing E911 service and projected costs for implementing E911 service, including recurring costs for Phase I and Phase II and the effect of new technologies;

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

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

~~(b) The fee is established to ensure full recovery for providers and for counties, over a reasonable period, of the costs associated with developing and maintaining an E911 system on a technologically and competitively neutral basis.~~

~~(i)(e) After July 1, 2001, The board may adjust the allocation percentages or adjust provided in s. 365.173 or reduce the amount of the fee, or both, if necessary to ensure full cost recovery or prevent overrecovery of costs incurred in the provision of E911 service, including costs incurred or projected to be incurred to comply with the order. Any new allocation percentages or reduced or increased fee may not be adjusted for 1 year. The fee may not exceed 50 cents per month per each service identifier number. The board-established fee, and any board adjustment of the fee, shall be uniform throughout the state, except for the counties identified in paragraph (f). No less than 90 days before the effective date of any adjustment to the fee, the board shall provide written notice of the adjusted fee amount and effective date to each voice communications services provider from which the board is then receiving the fee.~~

~~(j)(d) State and local taxes do not apply to the fee.~~

~~(k)(e) A local government may not levy the fee or any additional fee on wireless providers or subscribers for the provision of E911 service.~~

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

(9) AUTHORIZED EXPENDITURES OF E911 FEE.—

~~(a) For purposes of this section, E911 service includes the functions of database management, call taking, location verification, and call transfer.~~

~~(b) All costs directly attributable to the establishment or provision of E911 service and contracting for E911 services are eligible for expenditure of moneys derived from imposition of the fee authorized by this section. These costs include the acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and E911 service features, as defined in the Public Service Commission's lawfully approved 911 and E911 and related tariffs or the acquisition, installation, and maintenance of other E911 equipment, including call answering equipment, call~~

transfer equipment, ANI controllers, ALI controllers, ANI displays, ALI displays, station instruments, E911 telecommunications systems, visual call information and storage devices, recording equipment, telephone devices and other equipment for the hearing impaired used in the E911 system, PSAP backup power systems, consoles, automatic call distributors, and interfaces, including hardware and software, for computer-aided dispatch (CAD) systems, integrated CAD systems for that portion of the systems used for E911 call taking, network clocks, salary and associated expenses for E911 call takers for that portion of their time spent taking and transferring E911 calls, salary and associated expenses for a county to employ a full-time equivalent E911 coordinator position and a full-time equivalent mapping or geographical data position and a staff assistant position per county for the portion of their time spent administrating the E911 system, training costs for PSAP call takers, supervisors, and managers in the proper methods and techniques used in taking and transferring E911 calls, costs to train and educate PSAP employees regarding E911 service or E911 equipment, and expenses required to develop and maintain all information, including ALI and ANI databases and other information source repositories, necessary to properly inform calltakers as to location address, type of emergency, and other information directly relevant to the E911 call-taking and transferring function. Moneys derived from the fee may also be used for next-generation E911 network services, next-generation E911 database services, next-generation E911 equipment, and wireless E911 routing systems.

(c) The moneys may not be used to pay for any item not listed in this subsection, 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, leasing, maintaining, or renovating buildings, except for those building modifications necessary to maintain the security and environmental integrity of the PSAP and E911 equipment rooms.

(10) LIABILITY OF COUNTIES.—A county subscribing to 911 service remains liable to the local exchange carrier for any 911 service, equipment, operation, or maintenance charge owed by the county to the local exchange carrier. As used in this subsection, the term “local exchange carrier” means a local exchange telecommunications service provider of 911 service or equipment to any county within its certificated area.

(11) INDEMNIFICATION AND LIMITATION OF LIABILITY.—Local governments are authorized to undertake to indemnify local exchange carriers against liability in accordance with the lawfully filed tariffs of the company. Notwithstanding an indemnification agreement, a voice communications services provider is not liable for damages resulting from or in connection with 911 or E911 service, or for identification of the telephone number, or address, or name associated with any person accessing 911 or E911 service, unless the voice communications services provider acted with malicious purpose or in a manner exhibiting wanton and willful disregard of the rights, safety, or property of a person when providing such services. A voice communications services provider is not liable for damages to any person resulting from or in connection with the provider’s provision of any lawful assistance to any investigative or law enforcement officer of the United

States, this state, or a political subdivision thereof, or of any other state or political subdivision thereof, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer.

~~(9) MANAGEMENT OF FUNDS.—~~

~~(a) Each provider, as a part of its monthly billing process, shall collect the fee imposed under subsection (8). The provider may list the fee as a separate entry on each bill, in which case the fee must be identified as a fee for E911 services. A provider shall remit the fee only if the fee is paid by the subscriber. If a provider receives a partial payment for a monthly bill from a subscriber, the amount received shall first be applied to the payment due the provider for the provision of telecommunications service.~~

~~(b) In the case of prepaid wireless telephone service, the monthly wireless 911 surcharge imposed by subsection (8) shall be remitted based upon each prepaid wireless telephone associated with this state, for each wireless service customer that has a sufficient positive balance as of the last day of each month. The surcharge shall be remitted in any manner consistent with the wireless provider's existing operating or technological abilities, such as customer address, location associated with the MTN, or reasonable allocation method based upon other comparable relevant data. The surcharge amount or an equivalent number of minutes may be reduced from the prepaid subscriber's account since a direct billing may not be possible. However, collection of the wireless 911 surcharge in the manner of a reduction of value or minutes from the prepaid subscriber's account does not constitute a reduction in the sales price for purposes of taxes that are collected at the point of sale.~~

~~(c) A provider is not obligated to take any legal action to enforce collection of the fees for which any subscriber is billed. The provider shall provide to the board each quarter a list of the names, addresses, and service numbers of all subscribers who have indicated to the provider their refusal to pay the fee.~~

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

~~(e) Each provider shall deliver revenues from the fee 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 wireless customers whose place of primary use is in each county. A provider may apply to the board for a refund of, or may take a credit for, any fees remitted to the board which are not collected by the provider within 6 months following the month in which the fees are charged off for federal income tax purposes as bad debt. The board may waive the requirement that the fees and number of customers whose place of primary use is in each county be submitted to the board each month and authorize a provider to submit the fees and number of customers quarterly if the provider demonstrates that such waiver is necessary and justified.~~

~~(f) For purposes of this section, the definitions contained in s. 202.11 and the provisions of s. 202.155 apply in the same manner and to the same extent as such definitions and provisions apply to the taxes levied pursuant to chapter 202 on mobile communications services.~~

~~(g) As used in this subsection, the term “provider” includes any person or entity that resells wireless service and was not assessed the fee by its resale supplier.~~

~~(10) PROVISION OF SERVICES.—In accordance with the order, a provider is not required to provide E911 service until:~~

~~(a) The provider receives a request in writing for such service from the county 911 coordinator and the affected answering point is capable of receiving and using the data elements associated with the service.~~

~~(b) Funds are available under s. 365.173(2)(b).~~

~~(c) The local exchange carrier is able to support the E911 system.~~

~~(d) The service area has been scheduled for implementation of E911 service by the board pursuant to subparagraph (6)(a)3. If a county’s 911 coordinator requests E911 service from a provider, the coordinator shall also request E911 service from all other providers in the area in a nondiscriminatory and fair manner.~~

~~(12)(11) FACILITATING E911 SERVICE IMPLEMENTATION.—To balance the public need for reliable E911 services through reliable wireless systems and the public interest served by governmental zoning and land development regulations and notwithstanding any other law or local ordinance to the contrary, the following standards shall apply to a local government’s actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility. This subsection shall not, however, be construed to waive or alter the provisions of s. 286.011 or s. 286.0115. For the purposes of this subsection only, “local government” shall mean any municipality or county and any agency of a municipality or county only. The term “local government” does not, however, include any airport, as defined by s. 330.27(2), even if it is owned or controlled by or through a municipality, county, or agency of a municipality or county. Further, notwithstanding anything in this section to the contrary, this subsection does not apply to or control a local government’s actions as a property or structure owner in the use of any property or structure owned by such entity for the placement, construction, or modification of wireless communications facilities. In the use of property or structures owned by the local government, however, a local government may not use its regulatory authority so as to avoid compliance with, or in a manner that does not advance, the provisions of this subsection.~~

~~(a) Collocation among wireless providers is encouraged by the state.~~

~~1.a. Collocations on towers, including nonconforming towers, that meet the requirements in sub-sub-subparagraphs (I), (II), and (III), are subject to only building permit review, which may include a review for compliance~~

with this subparagraph. Such collocations are not subject to any design or placement requirements of the local government's land development regulations in effect at the time of the collocation that are more restrictive than those in effect at the time of the initial antennae placement approval, to any other portion of the land development regulations, or to public hearing review. This sub-subparagraph shall not preclude a public hearing for any appeal of the decision on the collocation application.

(I) The collocation does not increase the height of the tower to which the antennae are to be attached, measured to the highest point of any part of the tower or any existing antenna attached to the tower;

(II) The collocation does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment enclosures and ancillary facilities; and

(III) The collocation consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any, applied to the initial antennae placed on the tower and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the tower supporting the antennae. Such regulations may include the design and aesthetic requirements, but not procedural requirements, other than those authorized by this section, of the local government's land development regulations in effect at the time the initial antennae placement was approved.

b. Except for a historic building, structure, site, object, or district, or a tower included in sub-subparagraph a., collocations on all other existing structures that meet the requirements in sub-sub-subparagraphs (I)-(IV) shall be subject to no more than building permit review, and an administrative review for compliance with this subparagraph. Such collocations are not subject to any portion of the local government's land development regulations not addressed herein, or to public hearing review. This sub-subparagraph shall not preclude a public hearing for any appeal of the decision on the collocation application.

(I) The collocation does not increase the height of the existing structure to which the antennae are to be attached, measured to the highest point of any part of the structure or any existing antenna attached to the structure;

(II) The collocation does not increase the ground space area, otherwise known as the compound, if any, approved in the site plan for equipment enclosures and ancillary facilities;

(III) The collocation consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure, but not prohibitions or restrictions on the placement of additional collocations on the existing structure or procedural requirements, other than those authorized by this section, of the local government's land development regulations in effect at the time of the collocation application; and

(IV) The collocation consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable restrictions or conditions, if any, that do not conflict with sub-subparagraph (III) and were applied to the initial antennae placed on the structure and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the structure supporting the antennae.

c. Regulations, restrictions, conditions, or permits of the local government, acting in its regulatory capacity, that limit the number of collocations or require review processes inconsistent with this subsection shall not apply to collocations addressed in this subparagraph.

d. If only a portion of the collocation does not meet the requirements of this subparagraph, such as an increase in the height of the proposed antennae over the existing structure height or a proposal to expand the ground space approved in the site plan for the equipment enclosure, where all other portions of the collocation meet the requirements of this subparagraph, that portion of the collocation only may be reviewed under the local government's regulations applicable to an initial placement of that portion of the facility, including, but not limited to, its land development regulations, and within the review timeframes of subparagraph (d)2., and the rest of the collocation shall be reviewed in accordance with this subparagraph. A collocation proposal under this subparagraph that increases the ground space area, otherwise known as the compound, approved in the original site plan for equipment enclosures and ancillary facilities by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall, however, require no more than administrative review for compliance with the local government's regulations, including, but not limited to, land development regulations review, and building permit review, with no public hearing review. This sub-subparagraph shall not preclude a public hearing for any appeal of the decision on the collocation application.

2. If a collocation does not meet the requirements of subparagraph 1., the local government may review the application under the local government's regulations, including, but not limited to, land development regulations, applicable to the placement of initial antennae and their accompanying equipment enclosure and ancillary facilities.

3. If a collocation meets the requirements of subparagraph 1., the collocation shall not be considered a modification to an existing structure or an impermissible modification of a nonconforming structure.

4. The owner of the existing tower on which the proposed antennae are to be collocated shall remain responsible for compliance with any applicable condition or requirement of a permit or agreement, or any applicable condition or requirement of the land development regulations to which the existing tower had to comply at the time the tower was permitted, including any aesthetic requirements, provided the condition or requirement is not inconsistent with this paragraph.

5. An existing tower, including a nonconforming tower, may be structurally modified in order to permit collocation or may be replaced through no

more than administrative review and building permit review, and is not subject to public hearing review, if the overall height of the tower is not increased and, if a replacement, the replacement tower is a monopole tower or, if the existing tower is a camouflaged tower, the replacement tower is a like-camouflaged tower. This subparagraph shall not preclude a public hearing for any appeal of the decision on the application.

(b)1. A local government's land development and construction regulations for wireless communications facilities and the local government's review of an application for the placement, construction, or modification of a wireless communications facility shall only address land development or zoning issues. In such local government regulations or review, the local government may not require information on or evaluate a wireless provider's business decisions about its service, customer demand for its service, or quality of its service to or from a particular area or site, unless the wireless provider voluntarily offers this information to the local government. In such local government regulations or review, a local government may not require information on or evaluate the wireless provider's designed service unless the information or materials are directly related to an identified land development or zoning issue or unless the wireless provider voluntarily offers the information. Information or materials directly related to an identified land development or zoning issue may include, but are not limited to, evidence that no existing structure can reasonably be used for the antennae placement instead of the construction of a new tower, that residential areas cannot be served from outside the residential area, as addressed in subparagraph 3., or that the proposed height of a new tower or initial antennae placement or a proposed height increase of a modified tower, replacement tower, or collocation is necessary to provide the provider's designed service. Nothing in this paragraph shall limit the local government from reviewing any applicable land development or zoning issue addressed in its adopted regulations that does not conflict with this section, including, but not limited to, aesthetics, landscaping, land use based location priorities, structural design, and setbacks.

2. Any setback or distance separation required of a tower may not exceed the minimum distance necessary, as determined by the local government, to satisfy the structural safety or aesthetic concerns that are to be protected by the setback or distance separation.

3. A local government may exclude the placement of wireless communications facilities in a residential area or residential zoning district but only in a manner that does not constitute an actual or effective prohibition of the provider's service in that residential area or zoning district. If a wireless provider demonstrates to the satisfaction of the local government that the provider cannot reasonably provide its service to the residential area or zone from outside the residential area or zone, the municipality or county and provider shall cooperate to determine an appropriate location for a wireless communications facility of an appropriate design within the residential area or zone. The local government may require that the wireless provider reimburse the reasonable costs incurred by the local government for this cooperative determination. An application for such cooperative determination shall not be considered an application under paragraph (d).

4. A local government may impose a reasonable fee on applications to place, construct, or modify a wireless communications facility only if a similar fee is imposed on applicants seeking other similar types of zoning, land use, or building permit review. A local government may impose fees for the review of applications for wireless communications facilities by consultants or experts who conduct code compliance review for the local government but any fee is limited to specifically identified reasonable expenses incurred in the review. A local government may impose reasonable surety requirements to ensure the removal of wireless communications facilities that are no longer being used.

5. A local government may impose design requirements, such as requirements for designing towers to support collocation or aesthetic requirements, except as otherwise limited in this section, but shall not impose or require information on compliance with building code type standards for the construction or modification of wireless communications facilities beyond those adopted by the local government under chapter 553 and that apply to all similar types of construction.

(c) Local governments may not require wireless providers to provide evidence of a wireless communications facility's compliance with federal regulations, except evidence of compliance with applicable Federal Aviation Administration requirements under 14 C.F.R. s. 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use, but may request the Federal Communications Commission to provide information as to a wireless provider's compliance with federal regulations, as authorized by federal law.

(d)1. A local government shall grant or deny each properly completed application for a collocation under subparagraph (a)1. based on the application's compliance with the local government's applicable regulations, as provided for in subparagraph (a)1. and consistent with this subsection, and within the normal timeframe for a similar building permit review but in no case later than 45 business days after the date the application is determined to be properly completed in accordance with this paragraph.

2. A local government shall grant or deny each properly completed application for any other wireless communications facility based on the application's compliance with the local government's applicable regulations, including but not limited to land development regulations, consistent with this subsection and within the normal timeframe for a similar type review but in no case later than 90 business days after the date the application is determined to be properly completed in accordance with this paragraph.

3.a. An application is deemed submitted or resubmitted on the date the application is received by the local government. If the local government does not notify the applicant in writing that the application is not completed in compliance with the local government's regulations within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination

shall not be deemed as an approval of the application. If the application is not completed in compliance with the local government's regulations, the local government shall so notify the applicant in writing and the notification must indicate with specificity any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the local government shall notify the applicant, in writing, within the normal timeframes of review, but in no case longer than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. Deficiencies in document type or content not specified by the local government do not make the application incomplete. Notwithstanding this sub-subparagraph, if a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the local government may continue to request the information until such time as the specified deficiency is cured. The local government may establish reasonable timeframes within which the required information to cure the application deficiency is to be provided or the application will be considered withdrawn or closed.

b. If the local government fails to grant or deny a properly completed application for a wireless communications facility within the timeframes set forth in this paragraph, the application shall be deemed automatically approved and the applicant may proceed with placement of the facilities without interference or penalty. The timeframes specified in subparagraph 2. may be extended only to the extent that the application has not been granted or denied because the local government's procedures generally applicable to all other similar types of applications require action by the governing body and such action has not taken place within the timeframes specified in subparagraph 2. Under such circumstances, the local government must act to either grant or deny the application at its next regularly scheduled meeting or, otherwise, the application is deemed to be automatically approved.

c. To be effective, a waiver of the timeframes set forth in this paragraph must be voluntarily agreed to by the applicant and the local government. A local government may request, but not require, a waiver of the timeframes by the applicant, except that, with respect to a specific application, a one-time waiver may be required in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the local government.

(e) The replacement of or modification to a wireless communications facility, except a tower, that results in a wireless communications facility not readily discernibly different in size, type, and appearance when viewed from ground level from surrounding properties, and the replacement or modification of equipment that is not visible from surrounding properties, all as reasonably determined by the local government, are subject to no more than applicable building permit review.

(f) Any other law to the contrary notwithstanding, the Department of Management Services shall negotiate, in the name of the state, leases for wireless communications facilities that provide access to state government-owned property not acquired for transportation purposes, and the Department of Transportation shall negotiate, in the name of the state, leases for

wireless communications facilities that provide access to property acquired for state rights-of-way. On property acquired for transportation purposes, leases shall be granted in accordance with s. 337.251. On other state government-owned property, leases shall be granted on a space available, first-come, first-served basis. Payments required by state government under a lease must be reasonable and must reflect the market rate for the use of the state government-owned property. The Department of Management Services and the Department of Transportation are authorized to adopt rules for the terms and conditions and granting of any such leases.

(g) If any person adversely affected by any action, or failure to act, or regulation, or requirement of a local government in the review or regulation of the wireless communication facilities files an appeal or brings an appropriate action in a court or venue of competent jurisdiction, following the exhaustion of all administrative remedies, the matter shall be considered on an expedited basis.

~~(13)~~(12) MISUSE OF WIRELESS 911 OR E911 SYSTEM; PENALTY.—911 and E911 service must be used solely for emergency communications by the public. Any person who accesses the number 911 for the purpose of making a false alarm or complaint or reporting false information that could result in the emergency response of any public safety agency; any person who knowingly uses or attempts to use such service for a purpose other than obtaining public safety assistance; or any person who knowingly uses or attempts to use such service in an effort to avoid any charge for service, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. After being convicted of unauthorized use of such service four times, a person who continues to engage in such unauthorized use commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, if the value of the service or the service charge obtained in a manner prohibited by this subsection exceeds \$100, the person committing the offense commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(14)~~(13) STATE LAW NOT PREEMPTED.—This section and ss. 365.173 and 365.174 do not alter any state law that otherwise regulates voice communications services providers of telecommunications service.

Section 3. Section 501.95(2)(a), Florida Statutes, as created in CS for CS for SB 1638 or similar legislation, does not apply to prepaid calling arrangements as defined in s. 212.05(1)(e), Florida Statutes, including prepaid cards for wireless or wireline telecommunications service.

Section 4. Two and one-half full-time equivalent positions are authorized with an associated salary rate of 151,278, and the sum of \$561,834 in recurring funds is appropriated for the 2007-2008 fiscal year from the Emergency Communications Number E911 System Fund of the Department of Management Services from revenue received pursuant to s. 365.173, Florida Statutes, for expenditures related to the creation of the statewide E911 board.

Section 5. For the 2007-2008 fiscal year, the sum of \$56 million in recurring funds is appropriated from the Emergency Communications Number

E911 System Fund in the Department of Management Services to provide for the distribution of nonwireless fees to counties.

Section 6. For the 2007-2008 fiscal year, the sum of \$12,541,000 in recurring funds is appropriated from the Emergency Communications Number E911 System Fund in the Department of Management Services to provide for an increase in the distribution to counties for wireless fees.

Section 7. For the 2007-2008 fiscal year, the sum of \$25 million in nonrecurring funds is appropriated from the Emergency Communications Number E911 System Fund and placed in reserve in the Department of Management Services to provide grants to counties pursuant to s. 365.172(6)(a)3.b., Florida Statutes. The department is authorized to request the release of funds pursuant to the provisions in chapter 216, Florida Statutes.

Section 8. This act shall take effect upon becoming a law.

Approved by the Governor May 24, 2007.

Filed in Office Secretary of State May 24, 2007.