

Council Substitute for  
Council Substitute for House Bill No. 921

An act relating to wireless communications funds; amending s. 365.173, F.S.; redesignating the Wireless Emergency Telephone System Fund as the “Emergency Communications Number E911 System Fund”; requiring that all revenues derived from a fee levied by a county on local exchange subscribers be paid into the State Treasury by a specified date and that the moneys be accounted for in a special fund; providing a methodology for the distribution of the funds; requiring counties to return money to the fund under certain circumstances; requiring a wireless provider to submit sworn invoices in order to support claims for reimbursement of allowable costs; requiring that funds in the E911 system fund on a specified date be returned to wireless providers for costs incurred before a specified date; providing procedures for reimbursement; requiring the Auditor General to annually audit the fund; providing an effective date.

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

Section 1. Section 365.173, Florida Statutes, is amended to read:

365.173 Wireless Emergency Communications Number E911 Telephone System Fund.—

(1) All revenues derived from the E911 fee levied on subscribers under s. 365.172 must be paid by the board 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 Communications Number E911 Telephone System Fund, a fund created in the State Technology Program, or other office as designated by the Secretary of Management Services, and, for accounting purposes, must be segregated into two separate categories:

(a) The wireless category; and

(b) The nonwireless category.

All moneys ~~Office~~ and must be invested by the Chief Financial Officer pursuant to s. 17.61. All moneys in such fund are to be expended by the State Technology office for the purposes provided in this section and s. 365.172. These funds are not subject to s. 215.20.

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

(a) Sixty-seven ~~Forty-four~~ percent of the moneys in the wireless category shall be distributed each month to counties, based on the total number of

service identifiers wireless subscriber billing addresses in each county, and shall be used exclusively for payment of:

1. Authorized expenditures ~~Recurring costs of providing 911 or E911 service, as specified in s. 365.172(9) 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.

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

(c) Any county that receives funds under paragraphs (a) and (b) this paragraph shall establish a fund to be used exclusively for the receipt and expenditure of the revenues collected under paragraphs (a) and (b) this paragraph. All fees placed in the fund and any interest accrued shall be used solely for costs described in subparagraphs (a)1. and 2. The money collected and interest earned in this fund shall be appropriated for these purposes by the county commissioners and incorporated into the annual county budget. The fund shall be included within the financial audit performed in accordance with s. 218.39. A county may carry forward up to 20 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 subparagraphs(a)1. and 2.; however, the 20-percent limitation does not apply to funds disbursed to a county under s. 365.172(6)(a)3., and a county may carry forward any percentage of the funds, except that any grant provided shall continue to be subject to any condition imposed by the board this paragraph. In order to prevent an excess recovery of costs incurred in providing E911 service, a county that receives funds greater than the permissible E911 costs described in s. 365.172(9), including the 20 percent carryforward allowance, must return the excess funds to the E911 board to be allocated under s. 365.172(6)(a).

(d)(b) Thirty Fifty-four percent of the moneys in the wireless category shall be distributed to wireless providers in response to sworn invoices submitted to the board by wireless providers to reimburse such wireless 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 wireless 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 and other activities as defined in s. 365.172(6). 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. Each wireless 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. In order to be eligible for recovery during any ensuing state fiscal year, a wireless provider must submit all sworn invoices for allowable purchases made within the previous calendar year no later than March 31 of the fiscal year. By September 15 of each year, the board shall submit to the Legislature its legislative budget request for funds to be allocated to wireless providers under this paragraph during the ensuing state fiscal year. The budget request shall be based on the information submitted by the wireless providers and estimated surcharge revenues. Distributions of moneys in the fund by the board to wireless providers must be fair and nondiscriminatory. If the total amount of moneys requested by wireless providers pursuant to invoices submitted to the board and approved for payment exceeds the amount in the fund in any month, wireless 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 wireless providers pursuant to invoices submitted to the board exceeds the total amount of moneys on deposit in the fund.

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

(f) One percent of the moneys in the fund 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 and other activities as defined in s. 365.172(6). 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 redistributed as determined by the board.

(g)(e) Two percent of the moneys in the fund 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 to rural counties for upgrading and replacing E911 911 systems.

(h) By September 1, 2007, up to \$15 million of the existing 911 system fund shall be available for distribution by the board to the counties in order to prevent a loss 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 the future remittance by the nonwireless category.

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

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

(3) ~~Through fiscal year 2008-2009,~~ The Auditor General shall annually audit the fund to ensure that moneys in the fund are being managed in accordance with this section and s. 365.172. The Auditor General shall provide a report of the annual audit to the board.

Section 2. This act shall take effect upon becoming a law, if House Bill 919 or similar legislation is adopted in the legislative session or an extension thereof and becomes law.

Approved by the Governor May 24, 2007.

Filed in Office Secretary of State May 24, 2007.