

## CHAPTER 2010-50

### Council Substitute for Committee Substitute for House Bill No. 163

An act relating to prepaid wireless telecommunications service; amending s. 365.172, F.S.; removing provisions for a study of the feasibility of collecting an E911 fee on the sale of prepaid wireless telecommunications service; prohibiting collection of the fee until after a certain date; amending s. 365.173, F.S.; revising a limitation on the amount of funds received by a county from the E911 fee which may be carried forward to the following year; providing an effective date.

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

Section 1. Paragraph (a) of subsection (8) of section 365.172, Florida Statutes, is amended to read:

365.172 Emergency communications number “E911.”—

(8) E911 FEE.—

(a) Each voice communications services provider shall collect the fee described in this subsection. 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, 2013 ~~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. ~~No E911 fee shall be collected from the sale of prepaid wireless service prior to July 1, 2013. 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.

~~e.—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.

Section 2. Paragraph (c) of subsection (2) of section 365.173, Florida Statutes, is amended to read:

365.173 Emergency Communications Number E911 System Fund.—

(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), the moneys in the fund shall be distributed and used only as follows:

(c) Any county that receives funds under paragraphs (a) and (b) shall establish a fund to be used exclusively for the receipt and expenditure of the revenues collected under paragraphs (a) and (b). 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 30 ~~20~~ 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 30-percent ~~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. 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 30-percent ~~20-percent~~ carryforward allowance, must return the excess funds to the E911 board to be allocated under s. 365.172(6)(a).

The Legislature recognizes that the fee authorized under s. 365.172 may not necessarily provide the total funding required for establishing or providing the E911 service. It is the intent of the Legislature that all revenue from the fee be used as specified in this subsection.

Section 3. This act shall take effect July 1, 2010.

Approved by the Governor May 11, 2010.

Filed in Office Secretary of State May 11, 2010.