

## CHAPTER 2014-196

### Committee Substitute for Committee Substitute for House Bill No. 175

An act relating to emergency communication system; amending s. 365.172, F.S., relating to the Emergency Communications Number E911 System; revising definitions; revising provisions relating to oversight of certain fees by the Technology Program within the Department of Management Services; revising E911 board appointment provisions; revising duties of the board; revising provisions for administration, distribution, and use of the E911 fee; revising provisions for state E911 Grant Program funding; revising E911 fee provisions; revising fee collection procedures; providing that the state and local governments are not consumers for certain purposes; specifying the amount of the fee; revising provisions for use of the fees collected; authorizing the board to adjust the rate of the fee; providing that fees collected may not be included in the base for measuring any tax, fee, surcharge, or other charge; providing for a prepaid wireless E911 fee; limiting the amount of the fee; providing procedures for adjustment and imposition of the fee; requiring the Department of Revenue to provide notice to sellers; providing requirements for collection of the fee by the seller; providing criteria for the location of the transaction; providing requirements and procedures for filing returns and remitting fees to the Department of Revenue; directing the Department of Revenue to administer, collect, and enforce the fee pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax under specified provisions; providing applicability with respect to specified provisions of chapter 212, F.S.; requiring sellers of prepaid wireless services to register with the department; providing for distribution of funds remitted; limiting liability of provider or seller of prepaid wireless service; prohibiting a local government from imposing a fee on sellers of prepaid wireless services; providing that the state and local governments are not consumers for certain purposes; providing definitions for specified purposes; revising provisions for authorized expenditures of the E911 fee; providing that certain costs of the Department of Health are functions of 911 services; amending s. 365.173, F.S.; revising provisions for accounting, distribution, use, and auditing of the Emergency Communications Number E911 System Fund; providing for a prepaid wireless category in such fund; amending s. 401.465, F.S.; conforming a cross-reference; providing appropriations; providing effective dates.

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

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

365.172 Emergency communications number “E911.”—

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

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

~~(a)(b)~~ “Authorized expenditures” means expenditures of the fee, as specified in subsection ~~(10)~~ (9).

~~(b)(e)~~ “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.

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

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

~~(e)(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.

~~(f)(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.

~~(g)(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.

~~(h)(i)~~ “Enhanced 911” or “E911” means is the designation for an enhanced 911 system or enhanced 911 service that is an emergency telephone system or service that provides a subscriber with 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.

~~(i)(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.

~~(j)(k)~~ “Fee” means the E911 fee authorized and imposed under subsections subsection (8) and (9).

~~(k)(l)~~ “Fund” means the Emergency Communications Number E911 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, prepaid wireless, and nonwireless categories.

~~(l)(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.

~~(m)(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.

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

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

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

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

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

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

~~(t)(u)~~ “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 911 services, including Order Number FCC-05-116, adopted May 19, 2005.

(u) “Prepaid wireless category” means all revenues in the fund received through the Department of Revenue from the fee authorized and imposed under subsection (9).

(v) “Prepaid wireless service” means a right to access wireless service that allows a caller to contact and interact with 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars, which units or dollars expire on a predetermined schedule or are decremented on a predetermined basis in exchange for the right to access wireless service.

~~(v) “Prepaid calling arrangements” has the same meaning as defined in s. 212.05(1)(e).~~

(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) “Public safety answering point,” “PSAP,” or “answering point” means the public safety agency that receives incoming 911 requests for assistance and dispatches appropriate public safety agencies to respond to the requests in accordance with the state E911 plan.

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

~~(aa)(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.

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

~~(cc)~~(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 inter-connected 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.

~~(dd)~~(ee) “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 services and was assessed the fee authorized and imposed under subsection (8) by its resale supplier.

~~(ee)~~(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.”

~~(ff)~~(ee) “Wireless category” means the revenues to the fund received from a wireless provider from the fee authorized and imposed under subsection (8).

~~(gg)~~(ff) “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.

~~(hh)~~(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.

~~(ii)(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.

(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~~ under subsections ~~subsection~~ (8) and (9).

(5) THE E911 BOARD.—

(a) The E911 Board is established to administer, with oversight by the office, the fee imposed under subsections ~~subsection~~ (8) and (9), including receiving revenues derived from the fee; distributing portions of the 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 E911 service in this state. In order to advise and assist the office in implementing the purposes of this section, the board, which has the power of a body corporate, has the powers enumerated in subsection (6).

(b) The board shall consist of 11 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 10 members of the board shall be appointed by the Governor and must be composed of 5 county 911 coordinators, consisting of a representative from a rural county, a representative from a medium county, a representative from a large county, and 2 at-large representatives recommended by the Florida Association of Counties in consultation with the county 911 coordinators; 3 local exchange carrier member representatives, one of whom must be a representative of the local exchange carrier having the greatest number of access lines in the state and one of whom must be a representative of a certificated competitive local exchange telecommunications company; and 2 member representatives from the wireless telecommunications industry, with consideration given to wireless providers that 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 10 ~~eight~~ 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 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)(e) ~~s. 365.173(2)(d)~~ and (g) pursuant to the schedule, in order to implement E911 services in the most efficient and cost-effective manner.

b. Revenues in the fund which have not been disbursed because sworn invoices as required by s. 365.173(2)(e) ~~s. 365.173(2)(d)~~ have not been submitted to the board may be used by the board as needed to provide grants to counties for the purpose of upgrading E911 systems. The counties must use the funds only for capital expenditures or remotely provided hosted 911 answering point call-taking equipment and network services 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. The board shall take all actions within its authority to ensure that county recipients of such grants use 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 revenues upon determination that the funds were not used for the purpose under which they were provided.

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

d.e. The board shall reimburse all costs of a wireless provider in accordance with s. 365.173(2)(e) ~~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 as provided, ~~or both~~, under paragraph ~~(8)(g)~~ ~~(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 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 fee.

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

5. Meet monthly in the most efficient and cost-effective manner, including 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.

6. Hire and retain employees, which may include an independent executive 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. Sue and be sued, and appear and defend in all actions and proceedings, in its corporate name to the same extent as a natural person.

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

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

11. 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. Provide coordination, support, and technical assistance to counties to promote the deployment of advanced 911 and E911 systems in the state.

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

14. Act as an advocate for issues related to E911 system functions, features, and operations to improve the delivery of E911 services to the residents of and visitors to this state.

15. Coordinate input from this state at national forums and associations, to ensure that policies related to E911 systems and services are consistent with the policies of the E911 community in this state.

16. Work cooperatively with the system director established in s. 365.171(5) to enhance the state of E911 services in this state and to provide unified leadership for all E911 issues through planning and coordination.

17. 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. 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 state fiscal year and county fiscal calendar year:

1. The annual receipts, including the total amount of 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.

2. Whether the amount of the 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 a recommended adjustment to the fee.

3. Any other issues related to providing 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 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 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 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) E911 FEE.—

(a) Each voice communications services provider shall collect the fee described in this subsection, except that the fee for prepaid wireless service shall be collected in the manner set forth in subsection (9). 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 voice communications service provider other than a wireless provider shall bill the fee to a subscriber based on the number of access lines having access to the E911 system, on a service-identifier basis, up to a maximum of 25 access lines per account bill rendered.

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

3. 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,~~ 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 wireless service sold before January 1, 2015 ~~calling arrangement that is subject to s. 212.05(1)(e).~~

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

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

(I) ~~“Prepaid wireless service” means the right to access telecommunications services, which must be paid for in advance and 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, as a retailer or reseller.~~

4. Except in the case of prepaid wireless service, each The voice communications services provider ~~providers~~ not addressed under subparagraphs 1., 2., and 3. 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 subsection ~~section~~, the state and local governments are not subscribers.

(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)4. 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 ~~for per~~ each service identifier. Effective January 1, 2015, the fee shall be 40 cents per month for each service identifier. 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).~~

~~(g)(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. No sooner than June 1, 2015, the board may adjust the rate of the fee under paragraph (f) based on the criteria in this paragraph and paragraph (h). Any adjustment in the rate must be approved by a two-thirds vote of the total number of E911 board members. When setting the percentages ~~or 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. and s. 365.173(2)(h).

~~(h)(i)~~ The board may adjust the allocation percentages or adjust the amount of the fee ~~as provided in paragraph (g), 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. In no event shall the fee may not exceed 50 cents per month for per each service identifier. 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.

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

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

(k) A local government may not levy the fee or any additional fee on 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) PREPAID WIRELESS E911 FEE.—

(a) Effective January 1, 2015, a prepaid wireless E911 fee is imposed per retail transaction at the rate established in paragraph (8)(f). In order to allow sellers of all sizes and technological capabilities adequate time to comply with this subsection, a seller of prepaid wireless service operating in this state before the prepaid wireless E911 fee is imposed shall retain 100 percent of the fee collected under this paragraph for the first 2 months to offset the cost of setup.

(b) Effective March 1, 2015, the prepaid wireless E911 fee imposed under paragraph (a) shall be subject to remittance in accordance with paragraph (g). In no event shall the fee exceed 50 cents for each retail transaction. At least 90 days before the effective date of any adjustment to the fee under paragraph (8)(g), the Department of Revenue shall provide written notice of the adjusted fee amount and its effective date to each seller from which the department is then receiving the fee. At least 120 days before the effective date of any adjustment to the fee imposed under this subsection, the board shall provide notice to the Department of Revenue of the adjusted fee amount and effective date of the adjustment.

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

(d) For purposes of paragraph (c), a retail transaction that takes place in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state. Such transaction is deemed to have occurred in the county of the business location. When a retail transaction does not take place at the seller's business location, the transaction shall be treated as taking place at the consumer's shipping address or, if no item is shipped, at the consumer's address or the location

associated with the consumer's mobile telephone number. Such transaction is deemed to have occurred in the county of the consumer's shipping address when items are shipped to the consumer or, when no items are shipped, the county of the consumer's address or the location associated with the consumer's mobile telephone number. A transaction for which the specific Florida county cannot be determined shall be treated as nonspecific.

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

(f) The amount of the prepaid wireless E911 fee that is collected by a seller from a consumer and that is separately stated on an invoice, receipt, or similar document provided to the consumer by the seller, may not be included in the base for imposition of any tax, fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.

(g) Beginning April 1, 2015, each seller shall file a return and remit the prepaid wireless E911 fees collected in the previous month to the Department of Revenue on or before the 20th day of the month. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns are due on the next succeeding day that is not a Saturday, Sunday, or legal holiday observed by federal or state agencies as defined in chapter 683 and s. 7503 of the Internal Revenue Code of 1986, as amended. A seller may remit the prepaid wireless E911 fee by electronic funds transfer and file a fee return with the Department of Revenue that is initiated through an electronic data interchange.

1. When a seller is authorized by the Department of Revenue pursuant to s. 212.11(1)(c) or (d) to file a sales and use tax return on a quarterly, semiannual, or annual reporting basis, the seller may file a return and remit the prepaid wireless E911 fees on or before the 20th day of the month following the authorized reporting period for sales and use tax.

2. A seller collecting less than \$50 per month of prepaid wireless E911 fees may file a quarterly return for the calendar quarters ending in March, June, September, and December. The seller must file a return and remit the prepaid wireless E911 fees collected during each calendar quarter on or before the 20th day of the month following that calendar quarter.

3. A seller must provide the following information on each prepaid wireless E911 fee return filed with the Department of Revenue:

a. The seller's name, federal identification number, taxpayer identification number issued by the Department of Revenue, business location address and mailing address, and county of the business location in accordance with paragraph (d);

b. The reporting period;

c. The number of prepaid wireless services sold during the reporting period;

d. The amount of prepaid wireless E911 fees collected and the amount of any adjustments to the fees collected;

e. The amount of any retailer collection allowance deducted from the amount of prepaid wireless E911 fees collected; and

f. The amount to be remitted to the Department of Revenue.

4. A seller who operates two or more business locations for which returns are required to be filed with the Department of Revenue may file a consolidated return reporting and remitting the prepaid wireless E911 fee for all business locations. Such sellers must report the prepaid wireless E911 fees collected in each county, in accordance with paragraph (d), on a reporting schedule filed with the fee return.

5. A return is not required for a reporting period when no prepaid wireless E911 fee is to be remitted for that period.

6. Except as provided in this section, the Department of Revenue shall administer, collect, and enforce the fee under this subsection pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212. The provisions of chapter 212 regarding authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees shall apply. The provisions of estimated tax liability in s. 212.11(1)(a) do not apply to the prepaid wireless E911 fee.

(h) A seller of prepaid wireless services in this state must register with the Department of Revenue for each place of business as required by s. 212.18(3) and the Department of Revenue's administrative rule regarding registration as a sales and use tax dealer. A separate application is required for each place of business. A valid certificate of registration issued by the Department of Revenue to a seller for sales and use tax purposes is sufficient for purposes of the registration requirement of this subsection. There is no fee for registration for remittance of the prepaid wireless E911 fee.

(i) The Department of Revenue shall deposit the funds remitted under this subsection into the Audit and Warrant Clearing Trust Fund established in s. 215.199 and retain up to 3.2 percent of the funds remitted under this subsection to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 fees. Thereafter, the Department of Revenue shall transfer all remaining funds remitted under this subsection to the Emergency Communications Number E911 System Fund monthly for use as provided in s. 365.173.

(j) Beginning March 1, 2015, a seller may retain 5 percent of the prepaid wireless E911 fees that are collected by the seller from consumers as a retailer collection allowance.

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

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

(m) The limitations of liability under this subsection for providers and sellers are in addition to any other limitation of liability provided for under this section.

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

(o) For purposes of this section, the state and local governments are not consumers.

(p) For purposes of this subsection, the term:

1. “Consumer” means a person who purchases prepaid wireless service in a retail sale.

2. “Prepaid wireless E911 fee” means the fee that is required to be collected by a seller from a consumer as provided in this subsection.

3. “Provider” means a person that provides prepaid wireless service pursuant to a license issued by the Federal Communications Commission.

4. “Retail transaction” means the purchase by a consumer from a seller of prepaid wireless service that may be applied to a single service identifier for use by the consumer. If a consumer makes a purchase of multiple prepaid wireless services in a single transaction, each individual prepaid wireless service shall be considered a separate retail transaction for purposes of calculating the prepaid wireless E911 fee.

5. “Seller” means a person who makes retail sales of prepaid wireless services to a consumer.

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

(a) For purposes of this section, E911 service includes the functions of database management, call taking, dispatching, location verification, and call transfer. Department of Health certification and recertification and

training costs for 911 public safety telecommunications, including dispatching, are functions of 911 services.

(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 subsections (8) and (9) 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 providers' published schedules ~~Public Service Commission's lawfully approved 911 and E911 and related tariffs~~ or the acquisition, installation, and maintenance of other E911 equipment, including: circuits; call answering equipment;; call transfer equipment;; ANI or ALI controllers;; ~~ALI controllers,~~ ANI or ALI 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; GIS system and software equipment and information displays;; 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 technical system maintenance, database, and administration personnel ~~and a staff assistant position per county~~ for the portion of their time spent administrating the E911 system; emergency medical, fire, and law enforcement prearrival instruction software; charts and training costs;; 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, including fees collected by the Department of Health for the certification and recertification of 911 public safety telecommunicators as required under s. 401.465;; and expenses required to develop and maintain all information, including 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 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.

Section 2. Effective March 1, 2015, section 365.173, Florida Statutes, is amended to read:

365.173 Emergency Communications Number E911 System Fund.—

(1) REVENUES.—

(a) All Revenues derived from the fee levied on subscribers under s. 365.172(8) 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 Emergency Communications Number E911 System Fund, a fund created in the Technology Program, or other office as designated by the Secretary of Management Services.

(b) Revenues derived from the fee levied on prepaid wireless service under s. 365.172(9), less the costs of administering collection of the fee, must be transferred by the Department of Revenue to the Emergency Communications Number E911 System Fund on or before the 25th day of each month following the month of receipt. and,

(c) For accounting purposes, the Emergency Communications Number E911 System Fund must be segregated into three two separate categories:

- 1.(a) The wireless category; and
- 2.(b) The nonwireless category; and
- 3. The prepaid wireless category.

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

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

(a) Seventy-six ~~Sixty-seven~~ percent of the moneys in the wireless 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:

- 1. Authorized expenditures, as specified in s. 365.172(10) ~~s. 365.172(9)~~.
- 2. Costs to comply with the requirements for E911 service contained in the order and any future rules related to the order.

(b) Ninety-six ~~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(10) ~~s. 365.172(9)~~.

(c) Sixty-one percent of the moneys in the prepaid wireless category shall be distributed each month to counties based on the total amount of fees reported and paid in each county and shall be used exclusively for payment of authorized expenditures, as specified in s. 365.172(10). The moneys from prepaid wireless E911 fees identified as nonspecific in accordance with s. 365.172(9) shall be distributed as determined by the E911 Board.

(d)(e) Any county that receives funds under paragraphs (a), ~~and (b), and (c)~~ shall establish a fund to be used exclusively for the receipt and expenditure of the revenues collected under paragraphs (a), ~~and (b), and (c)~~. All fees placed in the fund and any interest accrued shall be used solely for costs described in subparagraphs (a)1. and 2. ~~and may not be reduced, withheld, or allocated for other purposes~~. 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. ~~The financial audit shall assure that all E911 fee revenues, interest, and E911 grant funding are used for payment of authorized expenditures, as specified in s. 365.172(10) and as specified in the E911 Board grant and special disbursement programs. The county is responsible for all expenditures of revenues distributed from the county E911 fund and shall submit the financial audit reports to the board for review.~~ A county may carry forward up to 30 percent of the total funds disbursed to the county by the board during a county fiscal calendar year for expenditures for capital outlay, capital improvements, ~~or~~ equipment replacement, ~~or implementation of a hosted system~~ if such expenditures are made for the purposes specified in subparagraphs (a)1. and 2.; however, the 30-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(10) ~~s. 365.172(9)~~, including the 30-percent carryforward allowance, must return the excess funds to the E911 board to be allocated under s. 365.172(6)(a).

(e)(d) Twenty ~~Thirty~~ 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. 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 each category of 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) ~~Three~~ Two percent of the moneys in each category of 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 grants by the office to rural counties for upgrading and replacing E911 systems.

(h) Thirty-five percent of the moneys in the prepaid wireless category shall be retained by the board to provide state E911 grants to be awarded in accordance with the following order of priority:

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

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

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

(3) 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~~ (2).

Section 3. Paragraph (a) of subsection (2) of section 401.465, Florida Statutes, is amended to read:

401.465 911 public safety telecommunicator certification.—

(2) PERSONNEL; STANDARDS AND CERTIFICATION.—

(a) Effective October 1, 2012, any person employed as a 911 public safety telecommunicator at a public safety answering point, as defined in s. 365.172(3) ~~s. 365.172(3)(a)~~, must be certified by the department.

Section 4. For the 2014-2015 fiscal year, the nonrecurring sum of \$250,000 is appropriated from the General Revenue Fund, and the recurring sum of \$190,713 is appropriated from the Operating Trust Fund, to the Department of Revenue for the purposes of administering this act.

Section 5. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2014.

Approved by the Governor June 20, 2014.

Filed in Office Secretary of State June 20, 2014.