



Energy & Utilities Subcommittee

Tuesday, March 12, 2013

9:00 AM

Webster Hall (212 Knott)



The Florida House of Representatives

Regulatory Affairs Committee

Energy & Utilities Subcommittee

Will Weatherford
Speaker

Clay Ford
Chair

AGENDA

March 12, 2013

9:00 a.m. – 11:00 a.m.

212 Knott Building (Webster Hall)

Opening Remarks by Vice Chair Diaz

Consideration of the following bills:

HB 277 by *Rep. Rehwinkel Vasilinda, Rep. J. Diaz*
Assessment of Residential & Nonhomestead Real Property

HB 807 by *Rep. Steube*
Emergency Communication System

Closing Remarks by Vice Chair Diaz

Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 277 Assessment of Residential & Nonhomestead Real Property

SPONSOR(S): Rehwinkel Vasilinda and Diaz, J.

TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1064

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Whittier <i>SW</i>	Collins <i>JBC</i>
2) Finance & Tax Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

In the November 2008 General Election, Florida voters approved a constitutional amendment relating to property taxes that authorized the Legislature, by general law, to prohibit consideration of the following in the determination of the assessed value of real property used for residential purposes:

- Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- The installation of a renewable energy source device.

This bill provides for implementation of the 2008 constitutional amendment. Specifically, the bill defines "changes or improvements made for the purpose of improving a property's resistance to wind damage" and "renewable energy source device." It provides that, in determining the assessed value of real property used for residential purposes, a property appraiser may not consider the increase in the just value attributed to changes or improvements made for the purpose of improving a property's resistance to wind damage or the installation of a renewable energy source device.

The bill specifies that the provision applies to new and existing property. Specifically, the provision applies to changes or improvements made to properties on or after January 1, 2013.

The bill takes effect on July 1, 2013, and applies to assessments beginning January 1, 2014.

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill. See *Fiscal Comments* section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Renewable Energy Property Tax Exemptions and Constitutional Amendment #3 (2008)

In 1980, Florida voters added the following authorization to Article VII, section 3(d), Florida Constitution:

By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

During the same year, based on the new constitutional authority, the Legislature approved a property tax exemption for real property on which a renewable energy source device¹ is installed and is being operated. However, the exemption expired after 10 years, as provided in the constitution. Specifically, the exemption period authorized in statute was from January 1, 1980, through December 31, 1990. Therefore, if an exemption was granted in December 1990, the exemption terminated in December 2000. The law required that the exemption could be no more than the lesser of the following:

- The assessed value of the property less any other exemptions applicable under the chapter;
- The original cost of the device, including the installation costs, but excluding the cost of replacing previously existing property removed or improved in the course of the installation; or
- Eight percent of the assessed value of the property immediately following the installation.

In December of 2000, the last of the exemptions expired.

During the 2008 Legislative Session, HB 7135 (ch. 2008-227, L.O.F.) was enacted, removing the expiration date of the property tax exemption, thereby allowing property owners to once again apply for the exemption, effective January 1, 2009. The period of each exemption, however, remained at 10 years. The bill also revised the options for calculating the amount of the exemption for properties with renewable energy source devices by limiting the exemption to the amount of the original cost of the device, including the installation cost, but not including the cost of replacing previously existing property.

In the November 2008 General Election, Florida voters approved a constitutional amendment placed on the ballot by the Taxation and Budget Reform Commission adding the following language to Article VII, section 4, of the Florida Constitution:

(i) The legislature, by general law and subject to conditions specified therein, may² prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

- (1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- (2) The installation of a renewable energy source device.

¹ Sections 196.175 and 196.012(14), F.S.

² The 2008 constitutional amendment is permissive and does not *require* the Legislature to enact legislation.

The amendment also repealed the constitutional authority for the Legislature to grant an *ad valorem* tax exemption to a renewable energy source device and to real property on which such device is installed and operated. This repealed language had provided the constitutional basis for legislation passed in 1980 and in 2008. Although the constitutional provision that the *ad valorem* tax exemption was based on has been repealed, the statutory language has not yet been repealed by the Legislature. On March 10, 2010, the House passed HB 7005, repealing the obsolete language [ss. 196.175 and 196.012(14), F.S.]. The bill, however, was not heard in the Senate and died in Messages. In 2011 and 2012, the House, again, passed the provision that repealed the obsolete language within bills implementing the constitutional amendment, but the bills died in the Senate.

Since the 2009 Session, a bill addressing implementation of the constitutional amendment has been filed in the House. In 2009, 2011, and 2012, the measure passed the House,³ but was not heard in the Senate.

Property Valuation and Property Appraisals

Article VII, section 4, of the Florida Constitution, provides that all property, with some exceptions, is to be assessed at "just value." Florida courts define "just value" as the estimated fair market value of the property. The constitution requires property appraisers to establish the just value of every parcel of real property as of January 1 each year.

"Assessed value of property"⁴ means an annual determination of the just or fair market value of an item or property or the value of a homestead property after application of the "Save Our Homes" assessment limitation⁵ and the 10 percent cap on non-homestead property.⁶ In addition, "assessed value" is also the classified use value of agricultural or other special classes of property that are valued based on their current "classified" use rather than on market value.

Section 193.011, F.S., lists the following factors to be taken into consideration when a property appraiser is determining just valuation:

- (1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;
- (2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration the legally permissible use of the property, including any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and any zoning changes, concurrency requirements, and permits necessary to achieve the highest and best use, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

³ The bills that passed the House are as follows: CS/HB 7113 (2009), CS/CS/HB 531 (2011), and CS/HB 133 (2012). In 2010, CS/HB 151 died in the House Finance & Taxation Committee.

⁴ Section 192.001(2), F.S.

⁵ The "Save Our Homes" amendment to the Florida Constitution was approved by voters in 1992. This amendment limits annual assessment increases to the lower of: 3 percent of the assessment for the prior year or the change in the Consumer Price Index (CPI) for all urban consumers. See Art. VII, s. 4(d)(1), Fla. Const.

⁶ On January 29, 2008, Florida voters approved a constitutional amendment changing property taxation provisions. Some of the changes provided that the property tax assessment of certain non-homestead property cannot increase by more than 10 percent per year, so long as ownership of the property does not change. The limitation does not apply to taxes levied by school districts.

- (3) The location of said property;
- (4) The quantity or size of said property;
- (5) The cost of said property and the present replacement value of any improvements thereon;
- (6) The condition of said property;
- (7) The income from said property; and
- (8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

Hurricane Mitigation Discounts and Premium Credits

Since 2003, insurers have been required to provide premium credits or discounts for residential property insurance for properties on which construction techniques which reduce the amount of loss in a windstorm have been installed.⁷

Typically, policyholders are responsible for substantiating to their insurers the existence of loss mitigation features in order to qualify for a mitigation discount. The Financial Services Commission (the Governor and Cabinet) adopted a uniform mitigation verification form in 2007 for use by all insurers to corroborate a home's mitigation features. An updated form was approved by the Financial Services Commission in **March 2010 and again in January 2012.**

Effect of Proposed Changes

The bill provides that, in determining the assessed value of real property used for residential purposes, for both new and existing property, a property appraiser may not consider the increase in the just value attributed to changes or improvements made for the purpose of improving a property's resistance to wind damage or the installation of a renewable energy source device.

- Changes or improvements made for the purpose of improving a property's resistance to wind damage means:
 - Improving the strength of the roof deck attachment;
 - Creating a secondary water barrier to prevent water intrusion;
 - Installing wind-resistant shingles;
 - Installing gable-end bracing;
 - Reinforcing roof-to-wall connections;
 - Installing storm shutters; or
 - Installing opening protections.

⁷ The former Department of Community Affairs, in cooperation with the Department of Insurance, contracted with Applied Research Associates, Inc., for a public domain study to provide insurers data and information on estimated loss reduction for wind resistive building features in single-family residences. The study, entitled *Development of Loss Relativities for Wind Resistive Features of Residential Structures*, was completed in 2002. The study's mathematical results, termed "wind loss relativities," were the basis for calculating the specific mitigation discount amount on the wind premium for mitigation features contained by the property. The relativities applied only to the portion of a policy's wind premium associated with the dwelling, its contents, and loss of use.

- The installation of a renewable energy source device means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:
 - Solar energy collectors, photovoltaic modules, and inverters.
 - Storage tanks and other storage systems, excluding swimming pools used as storage tanks.
 - Rockbeds.
 - Thermostats and other control devices.
 - Heat exchange devices.
 - Pumps and fans.
 - Roof ponds.
 - Freestanding thermal containers.
 - Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type.
 - Windmills and wind turbines.
 - Wind-driven generators.
 - Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.
 - Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The bill provides that when residential real property is being assessed, any increase in the just value of the property attributable to changes or improvements made to improve its resistance to wind damage, or for the installation of a renewable energy source device, may not be considered if an application is filed with the property appraiser on or before March 1 of the first year the property owner requests the assessment. The provision applies to changes or improvements to properties made on or after January 1, 2013, and applies to assessments beginning January 1, 2014.

The property appraiser may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish the increase in just value attributable to the renewable energy source device, or changes or improvements made for the purpose of improving the property's resistance to wind damage.

Similar to provisions in s. 196.011, F.S., the language provides the opportunity to file a late application with the property appraiser within 25 days following the mailing of the Truth in Millage notice and authorizes the applicant to file a petition with the Value Adjustment Board (VAB), pursuant to s. 194.011(3), F.S. The applicant must pay a non-refundable fee of \$15.00 upon filing the petition. Upon review of the petition by the property appraiser or the VAB, if the property is qualified to be assessed under this section and the property owner demonstrates particular extenuating circumstances to warrant granting assessment under this section, the property appraiser must recalculate the assessment in accordance with the new provision.

The bill deletes the existing definition of renewable energy source device in s. 196.012(14), F.S., and repeals the obsolete exemption (s. 196.175, F.S.), based on the repeal of the constitutional provision by the voters in 2008. Several cross-references are amended.

B. SECTION DIRECTORY:

Section 1. Creates s. 193.624, F.S., providing definitions; excluding the value of certain installations, changes, or improvements made after a specified date from the assessed value of residential real property; providing for application; requiring the filing of applications by specified times in order for such installations, changes, or improvements to be excluded from the assessed value of residential real property; providing procedural requirements and limitations; requiring a nonrefundable filing fee for a petition to the value adjustment board.

Section 2. Amends s. 193.155, F.S., specifying additional exceptions to the assessment of homestead property at just value.

Section 3. Amends s. 193.1554, F.S., specifying additional exceptions to assessment of nonhomestead property at just value.

Section 4. Amends s. 196.012, F.S., deleting the definition of the terms "renewable energy source device" and "device".

Section 5. Amends s. 196.121, F.S., amending a cross-reference.

Section 6. Amends s. 196.1995, F.S., amending cross-references.

Section 7. Repeals s. 196.175, F.S., relating to the renewable energy source device property tax exemption.

Section 8. Provides an effective date of July 1, 2013, and applies to assessments beginning on January 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill. See *Fiscal Comments* section.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provisions in the bill may result in lower property tax expenses and lower insurance rates and energy costs for taxpayers who make qualifying improvements to residential real property on or after January 1, 2013.

D. FISCAL COMMENTS:

2012 Revenue Estimating Conference Estimate

Although the Revenue Estimating Conference (REC) has not yet determined the fiscal impact of the bill for this session, in 2012, the REC estimated, assuming millage rates that were current, that the bill would have a negative impact on school tax revenues of \$5.1 million in FY 2013-14, \$10.4 million in FY 2014-15, \$16.5 million in FY 2015-16 and a recurring negative impact on school tax revenues of \$24.1

million. The estimated statewide negative impact on local government non-school tax revenue was \$7.1 million in FY 2013-14, \$14.4 million in FY 2014-15, \$23.1 million in FY 2015-16 with a negative \$33.6 million recurring.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Article VII, section 18, of the Florida Constitution, may apply because this bill reduces local government authority to raise revenue by reducing *ad valorem* tax bases compared to that which would exist under current law. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

Although this bill is implementing a constitutional amendment adopted by Florida voters, the constitutional language is permissive and only authorizes, not requires, the Legislature to act.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the assessment of residential and
 3 nonhomestead real property; creating s. 193.624, F.S.;
 4 providing definitions; excluding the value of certain
 5 installations, changes, or improvements made after a
 6 specified date from the assessed value of residential
 7 real property; providing for application; requiring
 8 the filing of applications by specified times in order
 9 for such installations, changes, or improvements to be
 10 excluded from the assessed value of residential real
 11 property; providing procedural requirements and
 12 limitations; requiring a nonrefundable filing fee for
 13 a petition to the value adjustment board; amending s.
 14 193.155, F.S.; specifying additional exceptions to the
 15 assessment of homestead property at just value;
 16 amending s. 193.1554, F.S.; specifying additional
 17 exceptions to assessment of nonhomestead property at
 18 just value; amending s. 196.012, F.S.; deleting the
 19 definition of the terms "renewable energy source
 20 device" and "device"; conforming a cross-reference;
 21 amending ss. 196.121 and 196.1995, F.S.; conforming
 22 cross-references; repealing s. 196.175, F.S., relating
 23 to the property tax exemption for renewable energy
 24 source devices; providing for applicability; providing
 25 an effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:
 28

29 Section 1. Section 193.624, Florida Statutes, is created
 30 to read:

31 193.624 Assessment of residential property.-

32 (1) As used in this section, the term:

33 (a) "Changes or improvements made for the purpose of
 34 improving a property's resistance to wind damage" means:

35 1. Improving the strength of the roof deck attachment;

36 2. Creating a secondary water barrier to prevent water
 37 intrusion;

38 3. Installing wind-resistant shingles;

39 4. Installing gable-end bracing;

40 5. Reinforcing roof-to-wall connections;

41 6. Installing storm shutters; or

42 7. Installing opening protections.

43 (b) "Renewable energy source device" means any of the
 44 following equipment that collects, transmits, stores, or uses
 45 solar energy, wind energy, or energy derived from geothermal
 46 deposits:

47 1. Solar energy collectors, photovoltaic modules, and
 48 inverters.

49 2. Storage tanks and other storage systems, excluding
 50 swimming pools used as storage tanks.

51 3. Rockbeds.

52 4. Thermostats and other control devices.

53 5. Heat exchange devices.

54 6. Pumps and fans.

55 7. Roof ponds.

56 8. Freestanding thermal containers.

57 | 9. Pipes, ducts, refrigerant handling systems, and other
 58 | equipment used to interconnect such systems; however, such
 59 | equipment does not include conventional backup systems of any
 60 | type.

61 | 10. Windmills and wind turbines.

62 | 11. Wind-driven generators.

63 | 12. Power conditioning and storage devices that use wind
 64 | energy to generate electricity or mechanical forms of energy.

65 | 13. Pipes and other equipment used to transmit hot
 66 | geothermal water to a dwelling or structure from a geothermal
 67 | deposit.

68 | (2) In determining the assessed value of real property
 69 | used for residential purposes, any increase in the just value of
 70 | the property attributable to the installation of a renewable
 71 | energy source device or changes or improvements made for the
 72 | purpose of improving a property's resistance to wind damage may
 73 | not be considered.

74 | (3) This section applies to the installation of a
 75 | renewable energy source device or changes or improvements made
 76 | for the purpose of improving a property's resistance to wind
 77 | damage installed or made on or after January 1, 2013, to new and
 78 | existing residential real property.

79 | (4) For a parcel of residential property to be assessed
 80 | pursuant to this section, the owner of such property must file
 81 | with the county property appraiser an application on or before
 82 | March 1 of the first year such treatment is requested. The
 83 | property appraiser may require the taxpayer or the taxpayer's
 84 | representative to furnish the property appraiser such

85 information as may reasonably be required to establish the
 86 increase in just value attributable to the renewable energy
 87 source device or changes or improvements made for the purpose of
 88 improving the property's resistance to wind damage. Failure to
 89 make timely application by March 1 constitutes a waiver of the
 90 property owner to have his or her assessment calculated for that
 91 year under this section. However, an applicant who fails to file
 92 an application by March 1 may file a late application and may
 93 file, pursuant to s. 194.011(3), a petition with the value
 94 adjustment board requesting assessment under this section. The
 95 petition must be filed on or before the 25th day after the
 96 mailing of the notice by the property appraiser as provided in
 97 s. 194.011(1). Notwithstanding s. 194.013, the applicant must
 98 pay a nonrefundable fee of \$15 upon filing the petition. Upon
 99 reviewing the petition, if the property is qualified to be
 100 assessed under this section and the property owner demonstrates
 101 particular extenuating circumstances judged by the property
 102 appraiser or the value adjustment board to warrant granting
 103 assessment under this section, the property appraiser shall
 104 calculate the assessment pursuant to this section.

105 Section 2. Paragraph (a) of subsection (4) of section
 106 193.155, Florida Statutes, is amended to read:

107 193.155 Homestead assessments.—Homestead property shall be
 108 assessed at just value as of January 1, 1994. Property receiving
 109 the homestead exemption after January 1, 1994, shall be assessed
 110 at just value as of January 1 of the year in which the property
 111 receives the exemption unless the provisions of subsection (8)
 112 apply.

113 (4)(a) Except as provided in paragraph (b) and s. 193.624,
 114 changes, additions, or improvements to homestead property shall
 115 be assessed at just value as of the first January 1 after the
 116 changes, additions, or improvements are substantially completed.

117 Section 3. Paragraph (a) of subsection (6) of section
 118 193.1554, Florida Statutes, is amended to read:

119 193.1554 Assessment of nonhomestead residential property.—

120 (6)(a) Except as provided in paragraph (b) and s. 193.624,
 121 changes, additions, or improvements to nonhomestead residential
 122 property shall be assessed at just value as of the first January
 123 1 after the changes, additions, or improvements are
 124 substantially completed.

125 Section 4. Subsections (14) through (20) of section
 126 196.012, Florida Statutes, are amended to read:

127 196.012 Definitions.—For the purpose of this chapter, the
 128 following terms are defined as follows, except where the context
 129 clearly indicates otherwise:

130 ~~(14) "Renewable energy source device" or "device" means~~
 131 ~~any of the following equipment which, when installed in~~
 132 ~~connection with a dwelling unit or other structure, collects,~~
 133 ~~transmits, stores, or uses solar energy, wind energy, or energy~~
 134 ~~derived from geothermal deposits:~~

135 ~~(a) Solar energy collectors.~~

136 ~~(b) Storage tanks and other storage systems, excluding~~
 137 ~~swimming pools used as storage tanks.~~

138 ~~(c) Rockbeds.~~

139 ~~(d) Thermostats and other control devices.~~

140 ~~(e) Heat exchange devices.~~

- 141 | ~~(f) Pumps and fans.~~
- 142 | ~~(g) Roof ponds.~~
- 143 | ~~(h) Freestanding thermal containers.~~
- 144 | ~~(i) Pipes, ducts, refrigerant handling systems, and other~~
- 145 | ~~equipment used to interconnect such systems; however,~~
- 146 | ~~conventional backup systems of any type are not included in this~~
- 147 | ~~definition.~~
- 148 | ~~(j) Windmills.~~
- 149 | ~~(k) Wind-driven generators.~~
- 150 | ~~(l) Power conditioning and storage devices that use wind~~
- 151 | ~~energy to generate electricity or mechanical forms of energy.~~
- 152 | ~~(m) Pipes and other equipment used to transmit hot~~
- 153 | ~~geothermal water to a dwelling or structure from a geothermal~~
- 154 | ~~deposit.~~

155 | (14)~~(15)~~ "New business" means:

156 | (a)1. A business or organization establishing 10 or more

157 | new jobs to employ 10 or more full-time employees in this state,

158 | paying an average wage for such new jobs that is above the

159 | average wage in the area, which principally engages in any one

160 | or more of the following operations:

161 | a. Manufactures, processes, compounds, fabricates, or

162 | produces for sale items of tangible personal property at a fixed

163 | location and which comprises an industrial or manufacturing

164 | plant; or

165 | b. Is a target industry business as defined in s.

166 | 288.106(2)(q);

167 | 2. A business or organization establishing 25 or more new

168 | jobs to employ 25 or more full-time employees in this state, the

169 sales factor of which, as defined by s. 220.15(5), for the
 170 facility with respect to which it requests an economic
 171 development ad valorem tax exemption is less than 0.50 for each
 172 year the exemption is claimed; or

173 3. An office space in this state owned and used by a
 174 business or organization newly domiciled in this state; provided
 175 such office space houses 50 or more full-time employees of such
 176 business or organization; provided that such business or
 177 organization office first begins operation on a site clearly
 178 separate from any other commercial or industrial operation owned
 179 by the same business or organization.

180 (b) Any business or organization located in an enterprise
 181 zone or brownfield area that first begins operation on a site
 182 clearly separate from any other commercial or industrial
 183 operation owned by the same business or organization.

184 (c) A business or organization that is situated on
 185 property annexed into a municipality and that, at the time of
 186 the annexation, is receiving an economic development ad valorem
 187 tax exemption from the county under s. 196.1995.

188 (15)~~(16)~~ "Expansion of an existing business" means:

189 (a)1. A business or organization establishing 10 or more
 190 new jobs to employ 10 or more full-time employees in this state,
 191 paying an average wage for such new jobs that is above the
 192 average wage in the area, which principally engages in any of
 193 the operations referred to in subparagraph (15)(a)1.; or

194 2. A business or organization establishing 25 or more new
 195 jobs to employ 25 or more full-time employees in this state, the
 196 sales factor of which, as defined by s. 220.15(5), for the

197 facility with respect to which it requests an economic
 198 development ad valorem tax exemption is less than 0.50 for each
 199 year the exemption is claimed; provided that such business
 200 increases operations on a site located within the same county,
 201 municipality, or both colocated with a commercial or industrial
 202 operation owned by the same business or organization under
 203 common control with the same business or organization, resulting
 204 in a net increase in employment of not less than 10 percent or
 205 an increase in productive output or sales of not less than 10
 206 percent.

207 (b) Any business or organization located in an enterprise
 208 zone or brownfield area that increases operations on a site
 209 located within the same zone or area colocated with a commercial
 210 or industrial operation owned by the same business or
 211 organization under common control with the same business or
 212 organization.

213 (16)~~(17)~~ "Permanent resident" means a person who has
 214 established a permanent residence as defined in subsection (17)
 215 ~~(18)~~.

216 (17)~~(18)~~ "Permanent residence" means that place where a
 217 person has his or her true, fixed, and permanent home and
 218 principal establishment to which, whenever absent, he or she has
 219 the intention of returning. A person may have only one permanent
 220 residence at a time; and, once a permanent residence is
 221 established in a foreign state or country, it is presumed to
 222 continue until the person shows that a change has occurred.

223 (18)~~(19)~~ "Enterprise zone" means an area designated as an
 224 enterprise zone pursuant to s. 290.0065. This subsection expires

225 | on the date specified in s. 290.016 for the expiration of the
 226 | Florida Enterprise Zone Act.

227 | (19)~~(20)~~ "Ex-servicemember" means any person who has
 228 | served as a member of the United States Armed Forces on active
 229 | duty or state active duty, a member of the Florida National
 230 | Guard, or a member of the United States Reserve Forces.

231 | Section 5. Subsection (2) of section 196.121, Florida
 232 | Statutes, is amended to read:

233 | 196.121 Homestead exemptions; forms.—

234 | (2) The forms shall require the taxpayer to furnish
 235 | certain information to the property appraiser for the purpose of
 236 | determining that the taxpayer is a permanent resident as defined
 237 | in s. 196.012(16) ~~196.012(17)~~. Such information may include, but
 238 | need not be limited to, the factors enumerated in s. 196.015.

239 | Section 6. Subsections (6) and (8), paragraph (d) of
 240 | subsection (9), and paragraph (d) of subsection (11) of section
 241 | 196.1995, Florida Statutes, are amended to read:

242 | 196.1995 Economic development ad valorem tax exemption.—

243 | (6) With respect to a new business as defined by s.
 244 | 196.012(14)(c) ~~196.012(15)(e)~~, the municipality annexing the
 245 | property on which the business is situated may grant an economic
 246 | development ad valorem tax exemption under this section to that
 247 | business for a period that will expire upon the expiration of
 248 | the exemption granted by the county. If the county renews the
 249 | exemption under subsection (7), the municipality may also extend
 250 | its exemption. A municipal economic development ad valorem tax
 251 | exemption granted under this subsection may not extend beyond
 252 | the duration of the county exemption.

253 (8) Any person, firm, or corporation which desires an
 254 economic development ad valorem tax exemption shall, in the year
 255 the exemption is desired to take effect, file a written
 256 application on a form prescribed by the department with the
 257 board of county commissioners or the governing authority of the
 258 municipality, or both. The application shall request the
 259 adoption of an ordinance granting the applicant an exemption
 260 pursuant to this section and shall include the following
 261 information:

- 262 (a) The name and location of the new business or the
 263 expansion of an existing business;
- 264 (b) A description of the improvements to real property for
 265 which an exemption is requested and the date of commencement of
 266 construction of such improvements;
- 267 (c) A description of the tangible personal property for
 268 which an exemption is requested and the dates when such property
 269 was or is to be purchased;
- 270 (d) Proof, to the satisfaction of the board of county
 271 commissioners or the governing authority of the municipality,
 272 that the applicant is a new business or an expansion of an
 273 existing business, as defined in s. 196.012 ~~(15)~~ or (16);
- 274 (e) The number of jobs the applicant expects to create
 275 along with the average wage of the jobs and whether the jobs are
 276 full-time or part-time;
- 277 (f) The expected time schedule for job creation; and
- 278 (g) Other information deemed necessary or appropriate by
 279 the department, county, or municipality.

280 (9) Before it takes action on the application, the board

281 of county commissioners or the governing authority of the
 282 municipality shall deliver a copy of the application to the
 283 property appraiser of the county. After careful consideration,
 284 the property appraiser shall report the following information to
 285 the board of county commissioners or the governing authority of
 286 the municipality:

287 (d) A determination as to whether the property for which
 288 an exemption is requested is to be incorporated into a new
 289 business or the expansion of an existing business, as defined in
 290 s. 196.012~~(15) or (16)~~, or into neither, which determination the
 291 property appraiser shall also affix to the face of the
 292 application. Upon the request of the property appraiser, the
 293 department shall provide to him or her such information as it
 294 may have available to assist in making such determination.

295 (11) An ordinance granting an exemption under this section
 296 shall be adopted in the same manner as any other ordinance of
 297 the county or municipality and shall include the following:

298 (d) A finding that the business named in the ordinance
 299 meets the requirements of s. 196.012(14) or (15) ~~196.012 (15) or~~
 300 ~~(16)~~.

301 Section 7. Section 196.175, Florida Statutes, is repealed.

302 Section 8. This act shall take effect July 1, 2013, and
 303 applies to assessments beginning January 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 807 Emergency Communication System

SPONSOR(S): Steube and others

TIED BILLS: IDEN./SIM. BILLS: SB 1070

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Keating <i>CK</i>	Collins <i>JAC</i>
2) Finance & Tax Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

The Wireless Emergency Communications Act established a statewide E911 system for wireless telephone users. To fund the E911 system, the act imposed a fee, capped at \$0.50, on voice communications services. This fee funds costs incurred by local governments to install and operate 911 systems and reimburses providers for costs incurred to provide 911 or E911 services. Section 365.172(8), F.S., requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis. The fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice over Internet Protocol, but is not currently imposed on prepaid wireless services. However, beginning July 1, 2013, state law requires collection of the fee from the sale of prepaid wireless service if it determines that a fee should be collected from such sales. According to the 2012 Annual Report of the E911 Board, the suspension of collections from prepaid wireless service has resulted in a continual loss of E911 fee revenues each year since 2007, including a decrease of \$13.6 million in 2012.

The E911 Board, formerly the Wireless 911 Board, helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The primary function of the Board is to make disbursements from the E911 Trust Fund to county governments and wireless providers according to s. 365.173, F.S. The Board has the authority to adjust the level of the fee, within the \$0.50 cap, once annually.

The bill amends ss. 365.172 and 365.173, F.S., as follows:

- Provides for the collection of a prepaid wireless E911 fee by retailers at the point of sale, beginning November 1, 2013, and establishes a new category in the E911 Trust Fund for revenues derived from this fee.
- Sets the existing E911 fee at \$0.46 per month per service identifier, and sets the prepaid wireless E911 fee at \$0.46 per month for each retail transaction.
- Retains the existing E911 fee cap of \$0.50 and allow the Board, after January 1, 2015, to adjust the rate under this cap by a two-thirds vote of the total number of all Board members.
- Expands the list of authorized county expenditures for which E911 system funds may be used.
- Modifies the percentage of funds to be distributed to counties, such that counties will receive 97 percent of the moneys in the wireline category (up from 96 percent), 76 percent of the moneys in the wireless category (up from 67 percent), and 61 percent of the moneys in the new prepaid wireless category.
- Reduces the percentage of funds available for distribution to wireless providers from 30 percent to 20 percent.
- Provides that 35 percent of the moneys in the new prepaid wireless category will be retained by the Board to provide E911 grants to counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment.
- Amends and creates definitions to conform to the substantive provisions of the bill.
- Removes obsolete provisions.

As of the date of this analysis, the Revenue Estimating Conference had not released an estimate of the revenue impacts of this bill on state or local governments. The bill requires the Department of Revenue to retain up to one percent of the funds remitted to it as reimbursement for its direct costs to implement the bill. To address costs imposed on sellers of prepaid wireless service for system setup and collections and remittance, the bill allows sellers to retain 100 percent of their E911 fee collections for the first two months of collections and allows sellers to retain five percent of their E911 fee collections thereafter.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0807.EUS.DOCX

DATE: 3/8/2013

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Wireless Emergency Communications Act¹ established a statewide E911 system for wireless telephone users. To fund the E911 system, the act imposed a fee, capped at \$0.50, on voice communications services. This fee funds costs incurred by local governments to install and operate 911 systems and reimburses providers for costs incurred to provide 911 or E911 services.

Section 365.172(8), F.S., requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis. The fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice over Internet Protocol, but is not currently imposed on prepaid wireless services.² State and local governments are not subject to the fee.³

The E911 Board, formerly the Wireless 911 Board, helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The primary function of the E911 Board (Board) is to make disbursements from the Emergency Communications Number E911 System Fund (E911 Fund) to county governments and wireless providers according to s. 365.173, F.S. The Board has the authority to adjust the level of the fee, within the \$0.50 cap, once annually.

As of March 31, 2008, all 67 counties in Florida reported capability to receive a call back number and location provided for the cellular caller from the service provider.⁴ The next progression in E911 systems is referred to as Next Generation 911 (NG 911). According to the E911 Board's 2012 Annual Report, NG-911 is the migration of E911 systems to Internet Protocol-capable equipment and networks, which will resolve deficiencies in the current systems while providing data, text, and video capabilities to support emergency communications. The Board and Florida's public safety agencies are currently planning, designing, and implementing emergency services IP (Internet protocol) networks and system replacements, though the development of an NG-911 system will likely involve a multi-year transition.⁵

E911 Fees for Prepaid Wireless Service

In 2006, the Board was required⁶ to evaluate the 911 system revenues and services costs to determine the date that the wireless E911 fee could be reduced to a level that still funds all counties' E911 costs, service provider costs, and Board administration costs. In its report, the Board concluded that there were insufficient fee revenues collected to cover all county and service provider E911 costs.⁷

In its report, the Board also recommended that the Legislature consider changing the provisions relating to prepaid calling services so that fees are imposed on users in a fair and consistent manner.

¹ Chapter 99-367, L.O.F., codified in s. 365.172, F.S. Today the statute is cited as the "Emergency Communications Number E911 Act." Section 365.172(1), F.S.

² Prepaid wireless service is defined as "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." See s. 365.172(8)(a)2.b.(I), F.S.

³ Section 365.172(8)(c), F.S.

⁴ Florida Department of Management Services, *Florida Enhanced 911*, http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited March 5, 2013).

⁵ *2012 Annual Report of the E911 Board*.

⁶ See proviso language accompanying specific appropriation 2946 of the Fiscal Year 2006-07 General Appropriations Act (HB 5001).

⁷ Florida Department of Management Services, E911 Board, *2006 Wireline and Wireless 911 Fee Evaluation Legislative Report* (Sept. 29, 2006).

At that time, E911 fees for prepaid wireless service were remitted based upon each prepaid wireless telephone associated with this state, for each wireless service customer that had a sufficient positive balance as of the last day of each month. Recognizing that direct billing may not be possible, the law provided that the surcharge amount, or an equivalent number of minutes, may be reduced from the prepaid wireless subscriber's account.

In 2007, the Legislature suspended collection of E911 fees on prepaid wireless service until July 1, 2009, and required the board to conduct a study on the collection of E911 fees on the sale of prepaid wireless service.⁸ The resulting report⁹ concluded that it is feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis.

In 2010, the Legislature extended the suspension of E911 fee collections for prepaid wireless service through July 1, 2013, at which point the Board is required to collect the fee from the sale of prepaid wireless service if it determines that a fee should be collected from such sales.¹⁰

Distribution of E911 Funds

Funds generated from the E911 fees levied on subscribers are accounted for in the Emergency Communications Number E911 System Fund and segregated into two separate categories: wireless and nonwireless.¹¹ One percent of the moneys in each category is retained by the Board to cover the costs of managing, administering, and overseeing the E911 Fund. Two percent of the moneys in each category are used to make monthly distributions to rural counties for facilities, network and service enhancements, and assistance for their E911 systems and to make grants to rural counties to upgrade and replace such systems.

In the wireless category, 67 percent of the moneys are distributed monthly to counties, based on the total number of service identifiers in each county. The county may use these funds to pay for expenditures related to establishing or providing E911 services and contracting for E911 services, as well as to pay for complying with the requirements for E911 service contained in specified Federal Communications Commission orders.¹² The remaining 20 percent of the moneys in the wireless category are available for distribution to wireless providers as reimbursement for actual costs incurred to provide E911 service.

In the nonwireless category, 97 percent of the moneys are distributed monthly to counties based on the total number of service identifiers in each county. The county may use these funds exclusively to pay for expenditures related to establishing or providing E911 services and contracting for E911 services.¹³

Section 365.172(10), F.S., specifies the types of expenses for which funds derived from the E911 fee may be expended. In general, all costs directly attributable to the establishment or provision of E911 service and contracting for E911 services are eligible. For this purpose, the law defines E911 service to include the functions of database management, call taking, dispatching, location verification, and call transfer.

A county may carry forward up to 30 percent of the total funds it receives from the Board during a calendar year for expenditures for capital outlay, capital improvements, or equipment replacement provided that the expenditures are otherwise authorized uses of the funds derived from E911 fees.

⁸ Chapter 2007-78, Laws of Florida.

⁹ Florida Department of Management Services, E911 Board, *E911 Prepaid Wireless Fee Collection and E911 Fee Exemptions: A Feasibility Analysis*, 106 (Dec. 31, 2008), available at http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911/e911_board_prepaid_study (last visited March 5, 2013).

¹⁰ Chapter 2010-50, Laws of Florida.

¹¹ Section 365.173(1), F.S.

¹² Section 365.173(2)(a), F.S. See also s. 365.172(9), F.S.

¹³ Section 365.173(2)(b), F.S.

Indemnification and Limitation of Liability

In general, a service provider that provides 911 or E911 service on a retail or wholesale basis 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.¹⁴ Further, a 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.¹⁵

A provider is not obligated to take legal action to enforce collection of the E911 fee that it bills a consumer.¹⁶

Effect of Proposed Changes

The bill amends ss. 365.172 and 365.173, F.S., as follows:

- Provides for the collection of a prepaid wireless E911 fee by retailers at the point of sale, beginning November 1, 2013, and establishes a new category in the E911 Fund for revenues derived from this fee.
- Sets the existing E911 fee at \$0.46 per month per service identifier, and sets the prepaid wireless E911 fee at \$0.46 per month for each retail transaction.
- Retains the existing E911 fee cap of \$0.50 and allows the Board, after January 1, 2015, to adjust the rate under this cap by a two-thirds vote of the total number of all Board members.
- Expands the list of authorized county expenditures for which E911 system funds may be used.
- Modifies the percentage of funds to be distributed to counties, such that counties will receive 97 percent of the moneys in the wireline category (up from 96 percent), 76 percent of the moneys in the wireless category (up from 67 percent), and 61 percent of the moneys in the new prepaid wireless category.
- Reduces the percentage of funds available for distribution to wireless providers from 30 percent to 20 percent.
- Provides that 35 percent of the moneys in the new prepaid wireless category will be retained by the Board to provide E911 grants to counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment.
- Amends and creates definitions to conform to the substantive provisions of the bill.
- Removes obsolete provisions.

Prepaid Wireless E911 Fee

The bill creates subsection (9) of section 365.172, F.S., to impose a prepaid wireless E911 fee on each retail purchase of prepaid wireless service from a seller. The bill defines prepaid wireless service:

“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 predetermined basis in exchange for the right to access wireless service.

¹⁴ Section 365.172(11), F.S. An exception exists when the provider acts 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.

¹⁵ Id.

¹⁶ Section 365.172(8)(b), F.S.

The bill ties the rate of the prepaid wireless E911 fee to the rate approved by the Board for other voice communications services. Initially, however, the bill sets the rate beginning January 1, 2014, at \$0.46. The bill provides that the fee may not exceed \$0.50 per month for each retail transaction. If the rate is adjusted by the Board (which may not occur before January 1, 2015), the Department of Revenue (DOR) must provide notice of the adjusted fee amount and the effective date to each seller no less than 90 days before the effective date.

The bill requires the fee to be collected by the seller of the prepaid wireless service on each retail transaction occurring in Florida. The amount of the fee must be separately stated or disclosed to the consumer. For purposes of collecting the fee, the bill provides that a retail transaction shall be treated as occurring in Florida if: (1) the retail transaction occurs in person at a seller's business location that is in this state; or (2) the retail transaction would be treated as occurring in Florida for purposes of collecting sales tax on prepaid calling arrangements.¹⁷ The bill provides that a seller may elect not to apply the fee to a transaction in which 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 bill includes provisions designed to address the expense incurred by sellers to implement the prepaid wireless E911 fee. Specifically, the bill provides that sellers will begin collecting the fee November 1, 2013, at a rate of \$0.46, and will retain all moneys collected through December 31, 2013, to offset setup costs. The bill allows sellers to retain five percent of the prepaid wireless E911 fees collected thereafter.

The bill provides that the prepaid wireless E911 fee is the liability of the consumer and not of the seller or the underlying service provider. The seller is, however, liable to remit all of the fees it collects from consumers. A seller must remit such fees to DOR in the manner specified in s. 212.11, F.S., which sets forth processes for state tax returns.

The bill requires DOR to aggregate and identify the prepaid wireless E911 fee by the county in which it was collected. The bill also requires DOR to establish registration and payment procedures that "substantially coincide" with the procedures that apply to the sales and use tax imposed by chapter 212, F.S. Further, the bill requires DOR to establish procedures for a seller to document that a particular sale of prepaid wireless service is not a retail transaction, which procedures must "substantially coincide" with the procedures for documenting a sale for resale transaction under s. 212.186, F.S.

The bill specifies that DOR, to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 fees, will retain up to one percent of the funds remitted to it. All remaining funds must be transferred to into the E911 Trust Fund on or before the 15th day of each month and within 30 days of receipt.

Existing E911 Fee

The bill provides that the E911 fee, beginning January 1, 2014, shall be set at \$0.46 per month per each service identifier for voice communications services other than prepaid wireless service. The bill authorizes the Board to adjust this fee after January 1, 2015, but requires a two-thirds vote of the total number of Board members.

¹⁷ The bill cross-references s. 212.05(1)(e)1.a.(II), F.S., which provides:

If the sale . . . does not take place at the dealer's place of business, it shall be deemed to take place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.

Distribution of E911 Funds

The bill establishes a new category in the E911 Fund for revenues derived from the prepaid wireless E911 fee. The bill specifies that the moneys in this category will be distributed as follows:

- 61 percent will be distributed each month to counties based on the total number of sales in each county.
- 35 percent will be retained by the Board to provide E911 grants to all counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment.
- Three percent will be used to make monthly distributions to rural counties for facilities, network and service enhancements, and assistance for their E911 systems and to make grants to rural counties to upgrade and replace such systems.
- One percent will be retained by the Board to cover the costs of managing, administering, and overseeing the E911 Fund.¹⁸

The bill increases distributions from the wireless category to counties from 67 percent to 76 percent. The bill decreases the percentage of funds available from the wireless category for distribution to wireless providers from 30 percent to 20 percent.

The bill decreases distributions from the nonwireless category to counties from 97 percent to 96 percent.

The bill increases the percentage of funds available from both the wireless and nonwireless categories to be used to make monthly distributions to rural counties for facilities, network and service enhancements, and assistance for their E911 systems and to make grants to rural counties to upgrade and replace such systems. Three percent of the funds in these categories will be available for these purposes, rather than the current two percent.

The bill clarifies that any county that receives funds from the E911 Fund may not reduce, withhold, or allocate such funds (plus any interest accrued on such funds) for purposes other than covering the costs specified in statute. Further, the bill provides that the county's annual financial audit must assure that all E911 fee revenues, interest, and E911 grant funding are used as specified in statute and as specified by the E911 Board's grant and special disbursement programs. The bill also requires counties to submit these financial audit reports to the Board.

The bill expands the list of authorized expenditures for which funds distributed from the E911 Fund may be used. The bill provides that Department of Health certification and recertification and training costs for 911 public safety communications, including dispatching, are functions of 911 services. In addition, it adds the following items to the list of authorized expenditures:

- Circuits
- GIS system and software equipment and information displays
- Salary and associated expenses for a county to employ technical system maintenance, database, and administration personnel
- Emergency medical, fire, and law enforcement prearrival instruction software, charts, and training costs

¹⁸ The Board currently retains one percent of all moneys in the E911 Fund for this purpose.

Indemnification and Limitation of Liability

The bill applies existing indemnification and limitation of liability protections to sellers and providers of prepaid wireless service. These protections, which are substantially similar to existing provisions related to the provision of 911 or E911 service by other voice communications services, provide as follows:

- 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.
- 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.

Miscellaneous Provisions

The bill specifies, with respect to both the E911 fee and the prepaid wireless E911 fee, that the amount of the fee collected may not be included in the base for measuring any tax, fee, surcharge, or other charge imposed by the state, any political subdivision of the state, or any governmental agency.

The bill also provides, with respect to both the E911 fee and the prepaid wireless E911 fee, that a local government may not levy any additional fee for the provision of E911 service.

The bill provides that the Board, when determining the funding provided in a state 911 grant application, must take into account information concerning the amount of carry-forward funds retained by the county from prior years. Such grants shall be limited by any county carry-forward funds in excess of the allowable 30 percent carry over, calculated on a 2-year basis.

The bill removes obsolete provisions from ss. 365.172 and 365.173, F.S. The bill also amends and creates definitions to conform to the substantive provisions of the bill.

B. SECTION DIRECTORY:

Section 1. Amends s. 365.172, F.S., relating to the emergency communications number E911.

Section 2. Amends s. 365.173, F.S., relating to the emergency communications number E911 system fund.

Section 3. Provides an effective date July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

As of the date of this analysis, the Revenue Estimating Conference had not released an estimate of the bill's impact on state government revenues.

2. Expenditures:

The Department of Revenue (DOR) will likely incur expenses to implement the provisions of the bill that require it to provide notice of prepaid wireless E911 fee rate adjustments to sellers, to collect the fee and aggregate collections by county, to establish registration and payment procedures, and to establish procedures for a seller to document that a particular sale of prepaid wireless service is not a retail transaction. The bill specifies that DOR, to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 fees, will retain up to one percent of the funds remitted to it.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

As of the date of this analysis, the Revenue Estimating Conference had not released an estimate of the bill's impact on local government revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires retail sellers of prepaid wireless service to collect the prepaid wireless E911 fee on such transactions (other than those involving service of 10 minutes or less or \$5 or less) and remit the proceeds to the Department of Revenue (DOR). For these sellers, this requirement imposes initial costs for system setup and ongoing costs for collections and remittance. To address these costs, the bill allows sellers to retain 100 percent of their E911 fee collections for the first two months of collections (between November 1, 2013, and December 31, 2013), and allows sellers to retain five percent of their E911 fee collections thereafter. Further, the bill includes additional provisions that appear to ease the burden on sellers by requiring the use of familiar processes. For example, the bill requires DOR to establish registration and payment procedures that "substantially coincide" with the procedures applicable to registration and payment of sales and use taxes, with which retailers are familiar. The bill also provides that the audit and appeals procedures applicable to sales and use taxes will apply to prepaid wireless E911 fees.

Consumers of prepaid wireless service with access to the E911 system will now pay an E911 fee on those services. The E911 fee currently paid by consumers of other voice communications services will be reduced by eight percent.

D. FISCAL COMMENTS:

Revenues from collection of the E911 fee are distributed by the Board to counties to cover authorized E911 system costs. Although the Board has not collected this fee from the sale of prepaid wireless service since 2007, users of prepaid wireless service are provided access to the E911 system. According to the 2012 Annual Report of the E911 Board, the suspension of collections from prepaid wireless service has resulted in a continual loss of E911 fee revenues each year since 2007, including a decrease of \$13.6 million in 2012 (representing a 15.4% decrease in E911 fee revenues from wireless service and a 3.7% decrease in E911 fee revenues from nonwireless service).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that the prepaid wireless E911 fee shall be imposed *per retail transaction*. The bill also states that this fee may not exceed a specified rate *per month for each retail transaction*. Thus, it is not clear whether the fee must be collected on each retail transaction or on only one retail transaction per month for a given consumer.

The bill provides that state and local governments are not “subscribers” for purposes of the prepaid wireless E911 fee. The term “subscriber” is not defined in s. 365.172, F.S.

The bill provides that “all revenues” derived from the prepaid wireless E911 fee must be paid by the Department of Revenue (DOR) into the E911 Fund on or before the 15th of each month. The bill separately requires DOR to retain one percent of the funds derived from the fees it collects and transfer the remaining funds to the Board within 30 days. The bill could be clarified to reconcile these two provisions.

The bill provides that the funds transferred by DOR to the Board are to be used as provided in s. 365.172(5), F.S. The referenced subsection does not describe how the funds may be used.

The bill does not provide penalties for a seller’s failure to remit fees at the times and in the manner prescribed by the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to emergency communication system;
 3 amending s. 365.172, F.S., relating to the Emergency
 4 Communications Number E911 System; revising
 5 definitions; revising provisions relating to oversight
 6 of certain fees by the Technology Program within the
 7 Department of Management Services; revising E911 board
 8 appointment provisions; revising duties of the board;
 9 revising provisions for administration, distribution,
 10 and use of the E911 fee; revising fee collection
 11 procedures; providing for the amount of the fee;
 12 authorizing the board to adjust the rate of the fee;
 13 prohibiting a local government from imposing a fee on
 14 sellers of prepaid wireless services; providing for a
 15 prepaid wireless E911 fee; requiring the Department of
 16 Revenue to provide notice to sellers and establish
 17 registration, payment, and documentation procedures;
 18 providing for distribution and use of fees collected;
 19 providing that fees collected may not be included in
 20 the base for measuring any tax, fee, surcharge, or
 21 other charge; providing for application of specified
 22 audit and appeals procedures; limiting liability of
 23 provider or seller of prepaid wireless service;
 24 providing that the state and local governments are not
 25 subscribers for certain purposes; providing
 26 definitions for specified purposes; revising
 27 provisions for authorized expenditures of the E911
 28 fee; providing that certain costs of the Department of

29 Health are functions of 911 services; amending s.
 30 365.173, F.S.; revising provisions for accounting,
 31 distribution, use, and auditing of the Emergency
 32 Communications Number E911 System Fund; providing for
 33 a prepaid wireless category in such fund; providing an
 34 effective date.

35

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

37

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

42 365.172 Emergency communications number "E911."—

43 (3) DEFINITIONS.—Only as used in this section and ss.
 44 365.171, 365.173, and 365.174, the term:

45 (a) "Answering point" means the public safety agency that
 46 receives incoming 911 calls and dispatches appropriate public
 47 safety agencies to respond to the calls.

48 (b) "Authorized expenditures" means expenditures of the
 49 fee, as specified in subsection (10) ~~(9)~~.

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

55 (d) "Automatic number identification" means the capability
 56 of the E911 service which enables the automatic display of the

57 service number used to place a 911 call.

58 (e) "Board" or "E911 Board" means the board of directors
59 of the E911 Board established in subsection (5).

60 (f) "Building permit review" means a review for compliance
61 with building construction standards adopted by the local
62 government under chapter 553 and does not include a review for
63 compliance with land development regulations.

64 (g) "Collocation" means the situation when a second or
65 subsequent wireless provider uses an existing structure to
66 locate a second or subsequent antennae. The term includes the
67 ground, platform, or roof installation of equipment enclosures,
68 cabinets, or buildings, and cables, brackets, and other
69 equipment associated with the location and operation of the
70 antennae.

71 (h) "Designed service" means the configuration and manner
72 of deployment of service the wireless provider has designed for
73 an area as part of its network.

74 (i) "E911" is the designation for an enhanced 911 system
75 or enhanced 911 service that is an emergency telephone system or
76 service that provides a subscriber with 911 service and, in
77 addition, directs 911 calls to appropriate public safety
78 answering points by selective routing based on the geographical
79 location from which the call originated, or as otherwise
80 provided in the state plan under s. 365.171, and that provides
81 for automatic number identification and automatic location-
82 identification features. E911 service provided by a wireless
83 provider means E911 as defined in the order.

84 (j) "Existing structure" means a structure that exists at

85 | the time an application for permission to place antennae on a
 86 | structure is filed with a local government. The term includes
 87 | any structure that can structurally support the attachment of
 88 | antennae in compliance with applicable codes.

89 | (k) "Fee" means the E911 fee authorized and imposed under
 90 | subsection (8) or the prepaid wireless E911 fee authorized and
 91 | imposed under subsection (9).

92 | (l) "Fund" means the Emergency Communications Number E911
 93 | System Fund established in s. 365.173 and maintained under this
 94 | section for the purpose of recovering the costs associated with
 95 | providing 911 service or E911 service, including the costs of
 96 | implementing the order. The fund shall be segregated into
 97 | wireless, prepaid wireless, and nonwireless categories.

98 | (m) "Historic building, structure, site, object, or
 99 | district" means any building, structure, site, object, or
 100 | district that has been officially designated as a historic
 101 | building, historic structure, historic site, historic object, or
 102 | historic district through a federal, state, or local designation
 103 | program.

104 | (n) "Land development regulations" means any ordinance
 105 | enacted by a local government for the regulation of any aspect
 106 | of development, including an ordinance governing zoning,
 107 | subdivisions, landscaping, tree protection, or signs, the local
 108 | government's comprehensive plan, or any other ordinance
 109 | concerning any aspect of the development of land. The term does
 110 | not include any building construction standard adopted under and
 111 | in compliance with chapter 553.

112 | (o) "Local exchange carrier" means a "competitive local

113 exchange telecommunications company" or a "local exchange
114 telecommunications company" as defined in s. 364.02.

115 (p) "Local government" means any municipality, county, or
116 political subdivision or agency of a municipality, county, or
117 political subdivision.

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

120 (r) "Mobile telephone number" or "MTN" means the telephone
121 number assigned to a wireless telephone at the time of initial
122 activation.

123 (s) "Nonwireless category" means the revenues to the fund
124 received from voice communications services providers other than
125 wireless providers.

126 (t) "Office" means the Technology Program within the
127 Department of Management Services, as designated by the
128 secretary of the department.

129 (u) "Order" means:

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

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

137 b. Memorandum and Order No. FCC 97-402 adopted on December
138 23, 1997.

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

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

141 2. Orders and rules subsequently adopted by the Federal
 142 Communications Commission relating to the provision of 911
 143 services, including Order Number FCC-05-116, adopted May 19,
 144 2005.

145 (v) "Prepaid wireless category" means all revenues in the
 146 fund received through the Department of Revenue from the fee
 147 authorized and imposed under subsection (9).

148 (w) "Prepaid wireless service" means a right to access
 149 wireless service that allows a caller to contact and interact
 150 with 911 to access the 911 system, which service must be paid
 151 for in advance and is sold in predetermined units or dollars,
 152 which units or dollars expire on a predetermined schedule or are
 153 decremented on a predetermined basis in exchange for the right
 154 to access wireless service.

155 ~~(v) "Prepaid calling arrangements" has the same meaning as~~
 156 ~~defined in s. 212.05(1)(e).~~

157 (x)~~(w)~~ "Public agency" means the state and any
 158 municipality, county, municipal corporation, or other
 159 governmental entity, public district, or public authority
 160 located in whole or in part within this state which provides, or
 161 has authority to provide, firefighting, law enforcement,
 162 ambulance, medical, or other emergency services.

163 (y)~~(x)~~ "Public safety agency" means a functional division
 164 of a public agency which provides firefighting, law enforcement,
 165 medical, or other emergency services.

166 (z) "Public safety answering point" or "PSAP" means the
 167 public safety agency that receives incoming 911 requests for
 168 assistance and dispatches appropriate public safety agencies to

169 respond to the requests in accordance with the state E911 plan.

170 (aa)~~(y)~~ "Rural county" means any county that has a
 171 population of fewer than 75,000.

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

177 (cc)~~(aa)~~ "Tower" means any structure designed primarily to
 178 support a wireless provider's antennae.

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

- 190 1. The service enables real-time, two-way voice
 191 communications;
- 192 2. The service requires a broadband connection from the
 193 user's locations;
- 194 3. The service requires IP-compatible customer premises
 195 equipment; and
- 196 4. The service offering allows users generally to receive

197 | calls that originate on the public switched telephone network
 198 | and to terminate calls on the public switched telephone network.

199 | ~~(ee)~~ "Voice communications services provider" or
 200 | "provider" means any person or entity providing voice
 201 | communications services, except that the term does not include
 202 | any person or entity that resells voice communications services
 203 | and was assessed the fee authorized and imposed under subsection
 204 | (8) by its resale supplier.

205 | ~~(ff)~~ "Wireless 911 system" or "wireless 911 service"
 206 | means an emergency telephone system or service that provides a
 207 | subscriber with the ability to reach an answering point by
 208 | accessing the digits "911."

209 | ~~(gg)~~ "Wireless category" means the revenues to the
 210 | fund received from a wireless provider from the fee authorized
 211 | and imposed under subsection (8).

212 | ~~(hh)~~ "Wireless communications facility" means any
 213 | equipment or facility used to provide service and may include,
 214 | but is not limited to, antennae, towers, equipment enclosures,
 215 | cabling, antenna brackets, and other such equipment. Placing a
 216 | wireless communications facility on an existing structure does
 217 | not cause the existing structure to become a wireless
 218 | communications facility.

219 | ~~(ii)~~ "Wireless provider" means a person who provides
 220 | wireless service and:

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

224 | ~~(jj)~~ "Wireless service" means "commercial mobile radio

225 service" as provided under ss. 3(27) and 332(d) of the Federal
 226 Telecommunications Act of 1996, 47 U.S.C. ss. 151 et seq., and
 227 the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-
 228 66, August 10, 1993, 107 Stat. 312. The term includes service
 229 provided by any wireless real-time two-way wire communication
 230 device, including radio-telephone communications used in
 231 cellular telephone service; personal communications service; or
 232 the functional or competitive equivalent of a radio-telephone
 233 communications line used in cellular telephone service, a
 234 personal communications service, or a network radio access line.
 235 The term does not include wireless providers that offer mainly
 236 dispatch service in a more localized, noncellular configuration;
 237 providers offering only data, one-way, or stored-voice services
 238 on an interconnected basis; providers of air-to-ground services;
 239 or public coast stations.

240 (4) POWERS AND DUTIES OF THE OFFICE.—The office shall
 241 oversee the administration of the fee authorized ~~and imposed on~~
 242 ~~subscribers of voice communications services~~ under subsections
 243 subsection (8) and (9).

244 (5) THE E911 BOARD.—

245 (a) The E911 Board is established to administer, with
 246 oversight by the office, the fees ~~fee~~ imposed under subsections
 247 ~~subsection~~ (8) and (9), including receiving revenues derived
 248 from the fee; distributing portions of the revenues to wireless
 249 providers, counties, and the office; accounting for receipts,
 250 distributions, and income derived by the funds maintained in the
 251 fund; and providing annual reports to the Governor and the
 252 Legislature for submission by the office on amounts collected

253 and expended, the purposes for which expenditures have been
 254 made, and the status of E911 service in this state. In order to
 255 advise and assist the office in implementing the purposes of
 256 this section, the board, which has the power of a body
 257 corporate, has the powers enumerated in subsection (6).

258 (b) The board shall consist of 11 members, one of whom
 259 must be the system director designated under s. 365.171(5), or
 260 his or her designee, who shall serve as the chair of the board.
 261 The remaining 10 members of the board shall be appointed by the
 262 Governor and must be composed of 5 county 911 coordinators,
 263 consisting of a representative from a rural county, a
 264 representative from a medium county, a representative from a
 265 large county, and 2 at-large representatives recommended by the
 266 Florida Association of Counties in consultation with the county
 267 911 coordinators; 3 local exchange carrier member
 268 representatives, one of whom must be a representative of the
 269 local exchange carrier having the greatest number of access
 270 lines in the state and one of whom must be a representative of a
 271 certificated competitive local exchange telecommunications
 272 company; and 2 member representatives from the wireless
 273 telecommunications industry, with consideration given to
 274 wireless providers that are not affiliated with local exchange
 275 carriers. Not more than one member may be appointed to represent
 276 any single provider on the board.

277 (c) The system director, designated under s. 365.171(5),
 278 or his or her designee, must be a permanent member of the board.
 279 Each of the remaining ten ~~eight~~ members of the board shall be
 280 appointed to a 4-year term and may not be appointed to more than

281 two successive terms. However, for the purpose of staggering
 282 terms, two of the original board members shall be appointed to
 283 terms of 4 years, two shall be appointed to terms of 3 years,
 284 and four shall be appointed to terms of 2 years, as designated
 285 by the Governor. A vacancy on the board shall be filled in the
 286 same manner as the original appointment.

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

293 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.-

294 (a) The board shall:

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

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

305 b. Revenues in the fund which have not been disbursed
 306 because sworn invoices as required by s. 365.173(2)(e)
 307 ~~365.173(2)(d)~~ have not been submitted to the board may be used
 308 by the board as needed to provide grants to counties for the

309 purpose of upgrading E911 systems. The counties must use the
 310 funds only for capital expenditures directly attributable to
 311 establishing and provisioning E911 services, which may include
 312 next-generation deployment. Prior to the distribution of grants,
 313 the board shall provide 90 days' written notice to all counties
 314 and publish electronically an approved application process.
 315 County grant applications shall be prioritized based on the
 316 availability of funds, current system life expectancy, system
 317 replacement needs, and Phase II compliance per the Federal
 318 Communications Commission. No grants will be available to any
 319 county for next-generation deployment until all counties are
 320 Phase II complete. The board shall take all actions within its
 321 authority to ensure that county recipients of such grants use
 322 these funds only for the purpose under which they have been
 323 provided and may take any actions within its authority to secure
 324 county repayment of grant revenues upon determination that the
 325 funds were not used for the purpose under which they were
 326 provided.

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

336 d.e. The board shall reimburse all costs of a wireless

337 provider in accordance with s. 365.173(2)(e) ~~365.173(2)(d)~~
 338 before taking any action to transfer additional funds.

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

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

362 4. Review documentation submitted by wireless providers
 363 which reflects current and projected funds derived from the fee,
 364 and the expenses incurred and expected to be incurred in order

365 | to comply with the E911 service requirements contained in the
 366 | order for the purposes of:

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

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

372 | c. Ascertaining the projected costs of compliance with the
 373 | requirements of the order and projected collections of the fee.

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

376 | 5. Meet monthly in the most efficient and cost-effective
 377 | manner, including telephonically when practical, for the
 378 | business to be conducted, to review and approve or reject, in
 379 | whole or in part, applications submitted by wireless providers
 380 | for recovery of moneys deposited into the wireless category, and
 381 | to authorize the transfer of, and distribute, the fee allocation
 382 | to the counties.

383 | 6. Hire and retain employees, which may include an
 384 | independent executive director who shall possess experience in
 385 | the area of telecommunications and emergency 911 issues, for the
 386 | purposes of performing the technical and administrative
 387 | functions for the board.

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

391 | 8. Sue and be sued, and appear and defend in all actions
 392 | and proceedings, in its corporate name to the same extent as a

393 natural person.

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

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

397 11. The board may adopt rules under ss. 120.536(1) and
398 120.54 to implement this section and ss. 365.173 and 365.174.

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

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

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

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

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

416 17. Do all acts and things necessary or convenient to
417 carry out the powers granted in this section in a manner that is
418 competitively and technologically neutral as to all voice
419 communications services providers, including, but not limited
420 to, consideration of emerging technology and related cost

421 savings, while taking into account embedded costs in current
 422 systems.

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

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

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

436 1. The annual receipts, including the total amount of fee
 437 revenues collected by each provider, the total disbursements of
 438 money in the fund, including the amount of fund-reimbursed
 439 expenses incurred by each wireless provider to comply with the
 440 order, and the amount of moneys on deposit in the fund.

441 2. Whether the amount of the fee and the allocation
 442 percentages set forth in s. 365.173 have been or should be
 443 adjusted to comply with the requirements of the order or other
 444 provisions of this chapter, and the reasons for making or not
 445 making a recommended adjustment to the fee.

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

447 4. The status of E911 services in this state.

448 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING

449 FIRM.—

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

456 1. A description of the scope and general requirements of
 457 the services requested.

458 2. A description of the specific accounting and reporting
 459 services required for administering the fund, including
 460 processing checks and distributing funds as directed by the
 461 board under s. 365.173.

462 3. A description of information to be provided by the
 463 proposer, including the proposer's background and qualifications
 464 and the proposed cost of the services to be provided.

465 (b) The board shall establish a committee to review
 466 requests for proposals which must include the statewide E911
 467 system director designated under s. 365.171(5), or his or her
 468 designee, and two members of the board, one of whom is a county
 469 911 coordinator and one of whom represents a voice
 470 communications services provider. The review committee shall
 471 review the proposals received by the board and recommend an
 472 independent accounting firm to the board for final selection. By
 473 agreeing to serve on the review committee, each member of the
 474 review committee shall verify that he or she does not have any
 475 interest or employment, directly or indirectly, with potential
 476 proposers which conflicts in any manner or degree with his or

477 her performance on the committee.

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

485 (8) E911 FEE.—

486 (a) Each voice communications services provider shall
 487 collect the fee described in this subsection. Each provider, as
 488 part of its monthly billing process, shall bill the fee as
 489 follows. The fee shall not be assessed on any pay telephone in
 490 the state.

491 1. Each voice communications service provider other than a
 492 wireless provider shall bill the fee to a subscriber based on
 493 the number of access lines having access to the E911 system, on
 494 a service-identifier basis, up to a maximum of 25 access lines
 495 per account bill rendered.

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

504 3. Except in the case of prepaid wireless service, each

505 wireless provider shall bill the fee to a subscriber on a per-
 506 service-identifier basis for service identifiers whose primary
 507 place of use is within this state. ~~Before July 1, 2013, the fee~~
 508 ~~shall not be assessed on or collected from a provider with~~
 509 ~~respect to an end user's service if that end user's service is a~~
 510 ~~prepaid calling arrangement that is subject to s. 212.05(1)(c).~~

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

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

514 (I) ~~"Prepaid wireless service" means the right to access~~
 515 ~~telecommunications services, which must be paid for in advance~~
 516 ~~and sold in predetermined units or dollars enabling the~~
 517 ~~originator to make calls such that the number of units or~~
 518 ~~dollars declines with use in a known amount.~~

519 (II) ~~"Prepaid wireless service providers" includes those~~
 520 ~~persons who sell prepaid wireless service regardless of its~~
 521 ~~form, as a retailer or reseller.~~

522 4. Except in the case of prepaid wireless service, each
 523 ~~The~~ voice communications services provider ~~providers~~ not
 524 addressed under subparagraphs 1., 2., and 3. shall bill the fee
 525 on a per-service-identifier basis for service identifiers whose
 526 primary place of use is within the state up to a maximum of 25
 527 service identifiers for each account bill rendered.

528
 529 The provider may list the fee as a separate entry on each bill,
 530 in which case the fee must be identified as a fee for E911
 531 services. A provider shall remit the fee to the board only if
 532 the fee is paid by the subscriber. If a provider receives a

533 partial payment for a monthly bill from a subscriber, the amount
 534 received shall first be applied to the payment due the provider
 535 for providing voice communications service.

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

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

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

550 (e) ~~Effective September 1, 2007,~~ Voice communications
 551 services providers billing the fee to subscribers shall deliver
 552 revenues from the fee to the board within 60 days after the end
 553 of the month in which the fee was billed, together with a
 554 monthly report of the number of service identifiers in each
 555 county. Each wireless provider and other applicable provider
 556 identified in subparagraph (a)4. shall report the number of
 557 service identifiers for subscribers whose place of primary use
 558 is in each county. All provider subscriber information provided
 559 to the board is subject to s. 365.174. If a provider chooses to
 560 remit any fee amounts to the board before they are paid by the

561 subscribers, a provider may apply to the board for a refund of,
 562 or may take a credit for, any such fees remitted to the board
 563 which are not collected by the provider within 6 months
 564 following the month in which the fees are charged off for
 565 federal income tax purposes as bad debt.

566 (f) The rate of the fee ~~shall be set by the board after~~
 567 ~~considering the factors set forth in paragraphs (h) and (i), but~~
 568 may not exceed 50 cents per month per each service identifier.
 569 Beginning on January 1, 2014, the fee shall be 46 cents. The fee
 570 shall apply uniformly and be imposed throughout the state,
 571 except for those counties that, before July 1, 2007, had adopted
 572 an ordinance or resolution establishing a fee less than 50 cents
 573 per month per access line. In those counties the fee established
 574 by ordinance may be changed only to the uniform statewide rate
 575 no sooner than 30 days after notification is made by the
 576 county's board of county commissioners to the board.

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

579 (g)(h) No later than November 1, 2007, The board may
 580 adjust the allocation percentages for distribution of the fund
 581 as provided in s. 365.173. After January 1, 2015, the board may
 582 adjust the rate of the fee under paragraph (f) based on the
 583 criteria in this paragraph and paragraph (h). Any adjustment in
 584 the rate must be approved by a two-thirds vote of the total
 585 number of E911 board members. When setting the percentages or
 586 ~~and~~ contemplating any adjustments to the fee, the board shall
 587 consider the following:

- 588 1. The revenues currently allocated for wireless service

589 provider costs for implementing E911 service and projected costs
 590 for implementing E911 service, including recurring costs for
 591 Phase I and Phase II and the effect of new technologies;

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

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

596 (h)~~(i)~~ The board may adjust the allocation percentages or
 597 adjust the amount of the fee as provided in paragraph (g)~~, or~~
 598 ~~both~~, if necessary to ensure full cost recovery or prevent
 599 overrecovery of costs incurred in the provision of E911 service,
 600 including costs incurred or projected to be incurred to comply
 601 with the order. Any new allocation percentages or reduced or
 602 increased fee may not be adjusted for 1 year. In no event shall
 603 the fee ~~may not~~ exceed 50 cents per month for ~~per~~ each service
 604 identifier. The ~~board-established~~ fee, and any board adjustment
 605 of the fee, shall be uniform throughout the state, except for
 606 the counties identified in paragraph (f). No less than 90 days
 607 before the effective date of any adjustment to the fee, the
 608 board shall provide written notice of the adjusted fee amount
 609 and effective date to each voice communications services
 610 provider from which the board is then receiving the fee.

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

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

617 | of this state, or any governmental agency.

618 | (k) A local government may not levy the fee or any
 619 | additional fee on providers, ~~or~~ subscribers, or sellers of
 620 | prepaid wireless services for the provision of E911 service.

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

626 | (9) PREPAID WIRELESS E911 FEE.—

627 | (a) There is imposed a prepaid wireless E911 fee per
 628 | retail transaction at the rate and in the manner set forth in
 629 | paragraphs (8) (f)-(h). Beginning January 1, 2014, the fee shall
 630 | be 46 cents. In no event shall the fee exceed 50 cents per month
 631 | for each retail transaction. No less than 90 days before the
 632 | effective date of any adjustment to the fee under paragraph
 633 | (8) (g), the Department of Revenue shall provide written notice
 634 | of the adjusted fee amount and its effective date to each seller
 635 | from which the department is then receiving the fee.

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

643 | (c) For purposes of paragraph (b), a retail transaction
 644 | that is effected in person by a consumer at a business location

645 of the seller shall be treated as occurring in this state if
 646 that business location is in this state, and any other retail
 647 transaction shall be treated as occurring in this state if the
 648 retail transaction is treated as occurring in this state under
 649 s. 212.05(1)(e)1.a.(II).

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

654 (e) The prepaid wireless E911 fee is the liability of the
 655 consumer and not of the seller or of any provider, except that
 656 the seller is liable to remit all prepaid wireless E911 fees
 657 that the seller collects from consumers as provided in this
 658 subsection, including all such charges that the seller is deemed
 659 to collect where the amount of the charge has not been
 660 separately stated on an invoice, receipt, or other similar
 661 document provided to the consumer by the seller.

662 (f) The amount of the prepaid wireless E911 fee that is
 663 collected by a seller from a consumer, whether or not such
 664 amount is separately stated on an invoice, receipt, or similar
 665 document provided to the consumer by the seller, shall not be
 666 included in the base for measuring any tax, fee, surcharge, or
 667 other charge that is imposed by this state, any political
 668 subdivision of this state, or any intergovernmental agency.

669 (g) Prepaid wireless E911 fees collected by sellers shall
 670 be remitted to the Department of Revenue at the times and in the
 671 manner provided under s. 212.11. The Department of Revenue shall
 672 aggregate and identify the prepaid wireless E911 fee by the

673 | county in which the fee was collected. The Department of Revenue
 674 | shall establish registration and payment procedures that
 675 | substantially coincide with the registration and payment
 676 | procedures that apply to the tax imposed by chapter 212.

677 | (h) The Department of Revenue shall retain up to 1 percent
 678 | of the funds remitted under this subsection to reimburse its
 679 | direct costs of administering the collection and remittance of
 680 | prepaid wireless fees. Thereafter, the department shall transfer
 681 | all remaining funds remitted under this subsection to the E911
 682 | Board within 30 days after receipt for use as provided in
 683 | subsection (5).

684 | (i) In order to allow sellers of all sizes and
 685 | technological capabilities adequate time to comply with this
 686 | subsection, a seller will begin collecting the prepaid wireless
 687 | fee November 1, 2013. From November 1, 2013, until December 31,
 688 | 2013, the fee will be in the amount of 46 cents. Sellers will
 689 | retain 100 percent of collections for 2 months to offset the
 690 | cost of setup.

691 | (j) Beginning January 1, 2014, a seller may retain 5
 692 | percent of the prepaid wireless E911 fees that are collected by
 693 | the seller from consumers.

694 | (k) The audit and appeals procedures applicable under s.
 695 | 212.13 applies to prepaid wireless E911 fees.

696 | (l) The Department of Revenue shall establish procedures
 697 | for a seller of prepaid wireless service to document that a sale
 698 | is not a retail transaction. The procedures shall substantially
 699 | coincide with the procedures for documenting a sale for resale
 700 | transaction under s. 212.186.

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

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

715 (o) The limitations of liability under this subsection for
 716 providers and sellers is in addition to any other limitation of
 717 liability provided for under this section.

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

721 (q) For purposes of this section, the state and local
 722 governments are not subscribers.

723 (r) For purposes of this subsection, the term:

724 1. "Consumer" means a person who purchases prepaid
 725 wireless service in a retail sale.

726 2. "Prepaid wireless E911 fee" means the fee that is
 727 required to be collected by a seller from a consumer in the
 728 amount established under paragraphs (8) (f)-(h).

729 3. "Provider" means a person that provides prepaid wireless
 730 service pursuant to a license issued by the Federal
 731 Communications Commission.

732 4. "Retail transaction" means the purchase of prepaid
 733 wireless service from a seller for any purpose other than
 734 resale.

735 5. "Seller" means a person who sells prepaid wireless
 736 service to another person.

737 (10)(9) AUTHORIZED EXPENDITURES OF E911 FEE.-

738 (a) For purposes of this section, E911 service includes
 739 the functions of database management, call taking, dispatching,
 740 location verification, and call transfer. Department of Health
 741 certification and recertification and training costs for 911
 742 public safety telecommunications, including dispatching, are
 743 functions of 911 services.

744 (b) All costs directly attributable to the establishment
 745 or provision of E911 service and contracting for E911 services
 746 are eligible for expenditure of moneys derived from imposition
 747 of the fee authorized by this section. These costs include the
 748 acquisition, implementation, and maintenance of Public Safety
 749 Answering Point (PSAP) equipment and E911 service features, as
 750 defined in the providers' published schedules ~~Public Service~~
 751 ~~Commission's lawfully approved 911 and E911 and related tariffs~~
 752 or the acquisition, installation, and maintenance of other E911
 753 equipment, including circuits, call answering equipment, call
 754 transfer equipment, ANI controllers, ALI controllers, ANI
 755 displays, ALI displays, station instruments, E911
 756 telecommunications systems, visual call information and storage

757 devices, recording equipment, telephone devices and other
 758 equipment for the hearing impaired used in the E911 system, PSAP
 759 backup power systems, consoles, automatic call distributors, and
 760 interfaces, including hardware and software, for computer-aided
 761 dispatch (CAD) systems, integrated CAD systems for that portion
 762 of the systems used for E911 call taking, GIS system and
 763 software equipment and information displays, network clocks,
 764 salary and associated expenses for E911 call takers for that
 765 portion of their time spent taking and transferring E911 calls,
 766 salary and associated expenses for a county to employ a full-
 767 time equivalent E911 coordinator position and a full-time
 768 equivalent mapping or geographical data position, and technical
 769 system maintenance, database, and administration personnel ~~and a~~
 770 ~~staff assistant position per county~~ for the portion of their
 771 time spent administrating the E911 system, emergency medical,
 772 fire, and law enforcement prearrival instruction software,
 773 charts and training costs, training costs for PSAP call takers,
 774 supervisors, and managers in the proper methods and techniques
 775 used in taking and transferring E911 calls, costs to train and
 776 educate PSAP employees regarding E911 service or E911 equipment,
 777 including fees collected by the Department of Health for the
 778 certification and recertification of 911 public safety
 779 telecommunicators as required under s. 401.465, and expenses
 780 required to develop and maintain all information, including ALI
 781 and ANI databases and other information source repositories,
 782 necessary to properly inform call takers as to location address,
 783 type of emergency, and other information directly relevant to
 784 the E911 call-taking and transferring function. Moneys derived

HB 807

2013

785 from the fee may also be used for next-generation E911 network
 786 services, next-generation E911 database services, next-
 787 generation E911 equipment, and wireless E911 routing systems.

788 (c) The moneys may not be used to pay for any item not
 789 listed in this subsection, including, but not limited to, any
 790 capital or operational costs for emergency responses which occur
 791 after the call transfer to the responding public safety entity
 792 and the costs for constructing, leasing, maintaining, or
 793 renovating buildings, except for those building modifications
 794 necessary to maintain the security and environmental integrity
 795 of the PSAP and E911 equipment rooms.

796 Section 2. Section 365.173, Florida Statutes, is amended
 797 to read:

798 365.173 Emergency Communications Number E911 System Fund.—

799 (1) (a) All revenues derived from the fee levied on
 800 subscribers under s. 365.172 (8) must be paid by the board into
 801 the State Treasury on or before the 15th day of each month. Such
 802 moneys must be accounted for in a special fund to be designated
 803 as the Emergency Communications Number E911 System Fund, a fund
 804 created in the Technology Program, or other office as designated
 805 by the Secretary of Management Services. All revenues derived
 806 from the fee levied on prepaid wireless service under s.
 807 365.172(9) must be paid by the Department of Revenue into the
 808 Emergency Communications Number E911 System Fund on or before
 809 the 15th day of each month., and, For accounting purposes, the
 810 Emergency Communications Number E911 System Fund must be
 811 segregated into three ~~two~~ separate categories:

812 1. (a) The wireless category; ~~and~~

813 2.~~(b)~~ The nonwireless category; and

814 3. The prepaid wireless category.

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

819 (2) As determined by the board pursuant to s.
820 365.172(8)(g) ~~365.172(8)(h)~~, and subject to any modifications
821 approved by the board pursuant to s. 365.172(6)(a)3. or (8)(h)
822 ~~(8)(i)~~, the moneys in the fund shall be distributed and used
823 only as follows:

824 (a) Seventy-six ~~Sixty-seven~~ percent of the moneys in the
825 wireless category shall be distributed each month to counties,
826 based on the total number of service identifiers in each county,
827 and shall be used exclusively for payment of:

828 1. Authorized expenditures, as specified in s. 365.172(10)
829 ~~365.172(9)~~.

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

833 (b) Ninety-six ~~Ninety-seven~~ percent of the moneys in the
834 nonwireless category shall be distributed each month to counties
835 based on the total number of service identifiers in each county
836 and shall be used exclusively for payment of authorized
837 expenditures, as specified in s. 365.172(10) ~~365.172(9)~~.

838 (c) Sixty-one percent of the moneys in the prepaid
839 wireless category shall be distributed each month to counties
840 based on the total number of sales in each county and shall be

841 used exclusively for payment of authorized expenditures, as
 842 specified in s. 365.172(10).

843 (d)~~(e)~~ Any county that receives funds under paragraphs
 844 (a), ~~and~~ (b), and (c) shall establish a fund to be used
 845 exclusively for the receipt and expenditure of the revenues
 846 collected under paragraphs (a), ~~and~~ (b), and (c). All fees
 847 placed in the fund and any interest accrued shall be used solely
 848 for costs described in subparagraphs (a)1. and 2. and may not be
 849 reduced, withheld, or allocated for other purposes. The money
 850 collected and interest earned in this fund shall be appropriated
 851 for these purposes by the county commissioners and incorporated
 852 into the annual county budget. The fund shall be included within
 853 the financial audit performed in accordance with s. 218.39. The
 854 financial audit shall assure that all E911 fee revenues,
 855 interest, and E911 grant funding are used for payment of
 856 authorized expenditures, as specified in s. 365.172(10) and as
 857 specified in the E911 Board grant and special disbursement
 858 programs. The county is responsible for all expenditures of
 859 revenues distributed from the county E911 fund and shall submit
 860 the financial audit reports to the board for review. A county
 861 may carry forward up to 30 percent of the total funds disbursed
 862 to the county by the board during a calendar year for
 863 expenditures for capital outlay, capital improvements, or
 864 equipment replacement, if such expenditures are made for the
 865 purposes specified in subparagraphs (a)1. and 2.; however, the
 866 30-percent limitation does not apply to funds disbursed to a
 867 county under s. 365.172(6)(a)3., and a county may carry forward
 868 any percentage of the funds, except that any grant provided

869 shall continue to be subject to any condition imposed by the
 870 board. In order to prevent an excess recovery of costs incurred
 871 in providing E911 service, a county that receives funds greater
 872 than the permissible E911 costs described in s. 365.172(10)
 873 ~~365.172(9)~~, including the 30-percent carryforward allowance,
 874 must return the excess funds to the E911 board to be allocated
 875 under s. 365.172(6)(a).

876 (e)~~(d)~~ Twenty ~~Thirty~~ percent of the moneys in the wireless
 877 category shall be distributed to wireless providers in response
 878 to sworn invoices submitted to the board by wireless providers
 879 to reimburse such wireless providers for the actual costs
 880 incurred to provide 911 or E911 service, including the costs of
 881 complying with the order. Such costs include costs and expenses
 882 incurred by wireless providers to design, purchase, lease,
 883 program, install, test, upgrade, operate, and maintain all
 884 necessary data, hardware, and software required to provide E911
 885 service. Each wireless provider shall submit to the board, by
 886 August 1 of each year, a detailed estimate of the capital and
 887 operating expenses for which it anticipates that it will seek
 888 reimbursement under this paragraph during the ensuing state
 889 fiscal year. In order to be eligible for recovery during any
 890 ensuing state fiscal year, a wireless provider must submit all
 891 sworn invoices for allowable purchases made within the previous
 892 calendar year no later than March 31 of the fiscal year. By
 893 September 15 of each year, the board shall submit to the
 894 Legislature its legislative budget request for funds to be
 895 allocated to wireless providers under this paragraph during the
 896 ensuing state fiscal year. The budget request shall be based on

897 the information submitted by the wireless providers and
 898 estimated surcharge revenues. Distributions of moneys in the
 899 fund by the board to wireless providers must be fair and
 900 nondiscriminatory. If the total amount of moneys requested by
 901 wireless providers pursuant to invoices submitted to the board
 902 and approved for payment exceeds the amount in the fund in any
 903 month, wireless providers that have invoices approved for
 904 payment shall receive a pro rata share of moneys in the fund and
 905 the balance of the payments shall be carried over to the
 906 following month or months until all of the approved payments are
 907 made. The board may adopt rules necessary to address the manner
 908 in which pro rata distributions are made when the total amount
 909 of funds requested by wireless providers pursuant to invoices
 910 submitted to the board exceeds the total amount of moneys on
 911 deposit in the fund.

912 ~~(e) Notwithstanding paragraphs (a) and (d), the amount of~~
 913 ~~money that remained in the wireless 911 system fund on December~~
 914 ~~31, 2006, must be disbursed to wireless providers for the~~
 915 ~~recovery of allowable costs incurred in previous years ending~~
 916 ~~December 31, 2006, and in accordance with paragraph (d). In~~
 917 ~~order to be eligible for recovered costs incurred under~~
 918 ~~paragraph (d), a wireless provider must submit sworn invoices to~~
 919 ~~the board by December 31, 2007. The board must disburse the~~
 920 ~~designated funds in the wireless 911 system fund on or after~~
 921 ~~January 1, 2008.~~

922 (f) One percent of the moneys in each category of the fund
 923 shall be retained by the board to be applied to costs and
 924 expenses incurred for the purposes of managing, administering,

925 and overseeing the receipts and disbursements from the fund and
 926 other activities as defined in s. 365.172(6). Any funds retained
 927 for such purposes in a calendar year which are not applied to
 928 such costs and expenses by March 31 of the following year shall
 929 be redistributed as determined by the board.

930 (g) Three ~~Two~~ percent of the moneys in each category of
 931 the fund shall be used to make monthly distributions to rural
 932 counties for the purpose of providing facilities and network and
 933 service enhancements and assistance for the 911 or E911 systems
 934 operated by rural counties and for the provision of grants by
 935 the office to rural counties for upgrading and replacing E911
 936 systems.

937 (h) Thirty-five percent of the moneys in the prepaid
 938 wireless category shall be retained by the board to provide
 939 state E911 grants to be awarded in accordance with the following
 940 order of priority: By September 1, 2007, up to \$15 million of
 941 the existing 911 system fund shall be available for distribution
 942 by the board to the counties in order to prevent a loss in the
 943 ordinary and expected time value of money caused by any timing
 944 delay in remittance to the counties of wireline fees caused by
 945 the one-time transfer of collecting wireline fees by the
 946 counties to the board. All disbursements for this purpose must
 947 be returned to the fund from the future remittance by the
 948 nonwireless category.

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

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

953 | information systems.

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

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

961 | (3) The Legislature recognizes that the fee authorized
 962 | under s. 365.172 may not necessarily provide the total funding
 963 | required for establishing or providing the E911 service. It is
 964 | the intent of the Legislature that all revenue from the fee be
 965 | used as specified in ~~this~~ subsection (2).

966 | Section 3. This act shall take effect July 1, 2013.

