



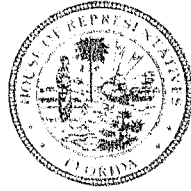
Energy & Utilities Subcommittee

MEETING PACKET

**Thursday, January 12, 2012
212 Knott Building
9:00 AM – 10:30 AM**

**Dean Cannon
Speaker**

**Scott Plakon
Chair**



The Florida House of Representatives

State Affairs Committee

Energy & Utilities Subcommittee

Dean Cannon
Speaker

Scott Plakon
Chair

AGENDA

January 12, 2012
9:00 a.m. - 10:30 a.m.
212 Knott Building

Opening Remarks by Chair Plakon

Presentation relating to Florida's Energy Future
Adam Putnam, Commissioner
Florida Department of Agriculture & Consumer Services

Consideration of the following bill(s):

PCS/HB 133 – Assessment of Residential and Nonhomestead Real Property by Frishe
HB 801 – Emergency 911 Service by Steube

Closing Remarks by Chair Plakon


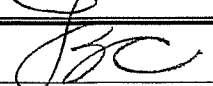
Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 133 Assessment of Residential and Nonhomestead Real Property

SPONSOR(S): Energy & Utilities Subcommittee

TIED BILLS: None. **IDEN./SIM. BILLS:** CS/SB 156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Energy & Utilities Subcommittee		Whittier 	Collins 

SUMMARY ANALYSIS

In the November 2008 General Election, Florida voters approved a constitutional amendment authorizing 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 implements 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, the 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, 2012, and applies to assessments beginning on January 1, 2013.

The Revenue Estimating Conference has not yet estimated the revenue impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

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 (chapter 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:

¹ Sections 196.175 and 196.012(14), F.S.
STORAGE NAME: pcs0133.ENUS.DOCX
DATE: 1/10/2012

(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.

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. On April 29, 2011, the House, again, passed the measure, but the bill was not heard in the Senate.

Property Valuation

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"³ 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 limitation⁴ and the 10 percent cap on non-homestead property.⁵ 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.

Property Appraisals

Section 193.011, F.S., lists the following factors to be taken into consideration when 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 any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, 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

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

³ Section 192.001(2), F.S.

⁴ 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 the change in the Consumer Price Index (CPI) or 3 percent of the assessment for the prior year. See Article VII, section 4(d)(1), of the Florida Constitution.

⁵ 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.

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 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.⁶

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 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 on March 9, 2010.

Effect of the Proposed Changes

The bill provides that, when determining the assessed value of real property used for residential purposes, for both new and existing property, the property appraiser may not consider the increase in the just value of the property attributable to the following:

- Changes or improvements made for the purpose of improving a property's resistance to wind damage, which include any of the following:
 - 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.

⁶ The 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.

- Installing opening protections.
- The installation and operation of a renewable energy source device, which means any of the following equipment which 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, conventional backup systems of any type are not included in this definition.
 - 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, 2012, and applies to assessments beginning January 1, 2013.

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 devices, 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., relating to definitions and assessment of residential real property.

Section 2. Amends s. 193.155, F.S., relating to homestead assessments.

Section 3. Amends s. 193.1554, F.S., relating to the assessment of nonhomestead residential property.

Section 4. Amends s. 196.012, F.S., deleting the definition of a renewable energy source 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, 2012, and applies to assessments beginning on January 1, 2013.

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 an estimate of the revenue impact of the bill on local governments.

2. Expenditures:

Local Property Appraisers may incur additional costs of implementing the provisions of the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provisions in the bill may:

- Incentivize homebuilders and homebuyers to construct or strengthen homes with improved wind resistance measures or to equip homes with renewable energy source devices;
- Lead to a recurring tax benefit for homeowners; and
- Result in lower insurance rates and energy costs for homeowners.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The Revenue Estimating Conference has not yet determined an estimate of the revenue impact of the bill on local governments; therefore, the applicability of the mandates provision is indeterminate until that estimate is established.

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

29 193.624 Assessment of residential property.-
 30 (1) For the purposes of this section:
 31 (a) "Changes or improvements made for the purpose of
 32 improving a property's resistance to wind damage" means:
 33 1. Improving the strength of the roof-deck attachment;
 34 2. Creating a secondary water barrier to prevent water
 35 intrusion;
 36 3. Installing wind-resistant shingles;
 37 4. Installing gable-end bracing;
 38 5. Reinforcing roof-to-wall connections;
 39 6. Installing storm shutters; or
 40 7. Installing opening protections.
 41 (b) "Renewable energy source device" means any of the
 42 following equipment that collects, transmits, stores, or uses
 43 solar energy, wind energy, or energy derived from geothermal
 44 deposits:
 45 1. Solar energy collectors, photovoltaic modules, and
 46 inverters.
 47 2. Storage tanks and other storage systems, excluding
 48 swimming pools used as storage tanks.
 49 3. Rockbeds.
 50 4. Thermostats and other control devices.
 51 5. Heat exchange devices.
 52 6. Pumps and fans.
 53 7. Roof ponds.
 54 8. Freestanding thermal containers.
 55 9. Pipes, ducts, refrigerant handling systems, and other
 56 equipment used to interconnect such systems; however, such

57 equipment does not include conventional backup systems of any
 58 type.

59 10. Windmills and wind turbines.

60 11. Wind-driven generators.

61 12. Power conditioning and storage devices that use wind
 62 energy to generate electricity or mechanical forms of energy.

63 13. Pipes and other equipment used to transmit hot
 64 geothermal water to a dwelling or structure from a geothermal
 65 deposit.

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

72 (3) This section applies to the installation of a renewable
 73 energy source device or changes or improvements made for the
 74 purpose of improving a property's resistance to wind damage made
 75 on or after January 1, 2012, to new and existing residential
 76 real property.

77 (4) For a parcel of residential property to be assessed
 78 pursuant to this section, the owner of such property must file
 79 with the county property appraiser an application on or before
 80 March 1 of the first year such treatment is requested. The
 81 property appraiser may require the taxpayer or the taxpayer's
 82 representative to furnish the property appraiser such
 83 information as may reasonably be required to establish the
 84 increase in just value attributable to the renewable energy

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

103 Section 2. Paragraph (a) of subsection (4) of section
 104 193.155, Florida Statutes, is amended to read:

105 193.155 Homestead assessments.—Homestead property shall be
 106 assessed at just value as of January 1, 1994. Property receiving
 107 the homestead exemption after January 1, 1994, shall be assessed
 108 at just value as of January 1 of the year in which the property
 109 receives the exemption unless the provisions of subsection (8)
 110 apply.

111 (4) (a) Except as provided in paragraph (b) and s. 193.624,
 112 changes, additions, or improvements to homestead property shall

113 be assessed at just value as of the first January 1 after the
 114 changes, additions, or improvements are substantially completed.

115 Section 3. Subsection (6) of section 193.1554, Florida
 116 Statutes, is amended to read:

117 193.1554 Assessment of nonhomestead residential property.—

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

123 Section 4. Subsections (14) through (20) of section
 124 196.012, Florida Statutes, are amended to read:

125 196.012 Definitions.—For the purpose of this chapter, the
 126 following terms are defined as follows, except where the context
 127 clearly indicates otherwise:

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

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

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

136 ~~(c) Rockbeds.~~

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

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

139 ~~(f) Pumps and fans.~~

140 ~~(g) Reef ponds.~~

141 ~~(h) Freestanding thermal containers.~~

142 ~~(i) Pipes, ducts, refrigerant handling systems, and other~~
 143 ~~equipment used to interconnect such systems; however,~~
 144 ~~conventional backup systems of any type are not included in this~~
 145 ~~definition.~~

146 ~~(j) Windmills.~~

147 ~~(k) Wind driven generators.~~

148 ~~(l) Power conditioning and storage devices that use wind~~
 149 ~~energy to generate electricity or mechanical forms of energy.~~

150 ~~(m) Pipes and other equipment used to transmit hot~~
 151 ~~geothermal water to a dwelling or structure from a geothermal~~
 152 ~~deposit.~~

153 (14)~~(15)~~ "New business" means:

154 (a)1. A business or organization establishing 10 or more
 155 new jobs to employ 10 or more full-time employees in this state,
 156 paying an average wage for such new jobs that is above the
 157 average wage in the area, which principally engages in any one
 158 or more of the following operations:

159 a. Manufactures, processes, compounds, fabricates, or
 160 produces for sale items of tangible personal property at a fixed
 161 location and which comprises an industrial or manufacturing
 162 plant; or

163 b. Is a target industry business as defined in s.
 164 288.106(2) (t);

165 2. A business or organization establishing 25 or more new
 166 jobs to employ 25 or more full-time employees in this state, the
 167 sales factor of which, as defined by s. 220.15(5), for the
 168 facility with respect to which it requests an economic

169 development ad valorem tax exemption is less than 0.50 for each
 170 year the exemption is claimed; or

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

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

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

186 (15)~~(16)~~ "Expansion of an existing business" means:

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

192 2. A business or organization establishing 25 or more new
 193 jobs to employ 25 or more full-time employees in this state, the
 194 sales factor of which, as defined by s. 220.15(5), for the
 195 facility with respect to which it requests an economic
 196 development ad valorem tax exemption is less than 0.50 for each

197 year the exemption is claimed; provided that such business
 198 increases operations on a site located within the same county,
 199 municipality, or both colocated with a commercial or industrial
 200 operation owned by the same business or organization under
 201 common control with the same business or organization, resulting
 202 in a net increase in employment of not less than 10 percent or
 203 an increase in productive output or sales of not less than 10
 204 percent.

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

211 ~~(16)~~~~(17)~~ "Permanent resident" means a person who has
 212 established a permanent residence as defined in subsection (17)
 213 ~~(18)~~.

214 (17)~~(18)~~ "Permanent residence" means that place where a
 215 person has his or her true, fixed, and permanent home and
 216 principal establishment to which, whenever absent, he or she has
 217 the intention of returning. A person may have only one permanent
 218 residence at a time; and, once a permanent residence is
 219 established in a foreign state or country, it is presumed to
 220 continue until the person shows that a change has occurred.

221 ~~(18)~~~~(19)~~ "Enterprise zone" means an area designated as an
 222 enterprise zone pursuant to s. 290.0065. This subsection expires
 223 on the date specified in s. 290.016 for the expiration of the
 224 Florida Enterprise Zone Act.

225 (19)~~(20)~~ "Ex-servicemember" means any person who has
 226 served as a member of the United States Armed Forces on active
 227 duty or state active duty, a member of the Florida National
 228 Guard, or a member of the United States Reserve Forces.

229 Section 5. Subsection (2) of section 196.121, Florida
 230 Statutes, is amended to read:

231 196.121 Homestead exemptions; forms.—

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

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

240 196.1995 Economic development ad valorem tax exemption.—

241 (6) With respect to a new business as defined by s.
 242 196.012(14)~~(15)~~(c), the municipality annexing the property on
 243 which the business is situated may grant an economic development
 244 ad valorem tax exemption under this section to that business for
 245 a period that will expire upon the expiration of the exemption
 246 granted by the county. If the county renews the exemption under
 247 subsection (7), the municipality may also extend its exemption.
 248 A municipal economic development ad valorem tax exemption
 249 granted under this subsection may not extend beyond the duration
 250 of the county exemption.

251 (8) Any person, firm, or corporation which desires an
 252 economic development ad valorem tax exemption shall, in the year

253 the exemption is desired to take effect, file a written
 254 application on a form prescribed by the department with the
 255 board of county commissioners or the governing authority of the
 256 municipality, or both. The application shall request the
 257 adoption of an ordinance granting the applicant an exemption
 258 pursuant to this section and shall include the following
 259 information:

260 (a) The name and location of the new business or the
 261 expansion of an existing business;

262 (b) A description of the improvements to real property for
 263 which an exemption is requested and the date of commencement of
 264 construction of such improvements;

265 (c) A description of the tangible personal property for
 266 which an exemption is requested and the dates when such property
 267 was or is to be purchased;

268 (d) Proof, to the satisfaction of the board of county
 269 commissioners or the governing authority of the municipality,
 270 that the applicant is a new business or an expansion of an
 271 existing business, as defined in s. 196.012~~(15) or (16)~~;

272 (e) The number of jobs the applicant expects to create
 273 along with the average wage of the jobs and whether the jobs are
 274 full-time or part-time;

275 (f) The expected time schedule for job creation; and

276 (g) Other information deemed necessary or appropriate by
 277 the department, county, or municipality.

278 (9) Before it takes action on the application, the board
 279 of county commissioners or the governing authority of the
 280 municipality shall deliver a copy of the application to the

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

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

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

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

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

299 Section 8. This act shall take effect July 1, 2012, and
 300 applies to assessments beginning January 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 801 Emergency 911 Service
SPONSOR(S): Steube
TIED BILLS: IDEN./SIM. BILLS: SB 1042

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Keating <i>OK</i>	Collins <i>JSC</i>
2) Community & Military Affairs Subcommittee			
3) Finance & Tax Committee			
4) State Affairs Committee			

SUMMARY ANALYSIS

The Emergency Communications Number E911 Act establishes a statewide E911 system for wireless telephone users. To fund the E911 system, the act imposes a fee, capped at \$.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.

Florida law requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis, up to a maximum of 25 access lines per account bill. 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 ("VoIP"). In most circumstances, Florida law protects these service providers from liability for damages resulting from or in connection with 911 or E911 service or for identification of the telephone number, address, or name associated with any person accessing 911 or E911 service.

The E911 Board helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The Board consists of nine members: the E911 system director (the secretary of the Department of Management Services or his or her designee) who serves as chair of the board; four county 911 coordinators; two local exchange carrier representatives; and two wireless telecommunications industry representatives recommended by the Florida Telecommunications Industry Association ("FTIA") in consultation with the wireless industry.

HB 801 amends certain provisions of the Emergency Communications Number E911 Act to do the following:

- Modify industry membership on the E911 Board by: expanding the number of local exchange carrier representatives from 2 to 3; adding a requirement that one of these 3 Board members represent a competitive local exchange telecommunications company; and reducing the number of wireless telecommunications industry representatives on the Board from 2 to 1.
- Clarify how the E911 fee will be billed by voice communications services providers other than wireless providers, including billing to customers served through certain high-capacity lines.
- Clarify that the indemnification and liability provisions related to the provision of 911 or E911 service will apply to non-voice communications (e.g., text, data, images, video) that may be utilized in Next Generation 911 applications currently being developed.
- Reflect the recent dissolution of the FTIA.

The bill also amends the Telecommunications Access System Act of 1991 to reflect the dissolution of the FTIA, which was known until 1996 as the Florida Telephone Association.

The bill does not appear to have a fiscal impact on state or local governments.

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

STORAGE NAME: h0801.ENUS.DOCX

DATE: 1/10/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Emergency Communications Number E911 Act¹ establishes a statewide E911 system for wireless telephone users. To fund the E911 system, the act imposes a fee, capped at \$.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. As of March 31, 2008, all 67 counties reported capability to receive a call back number and location information provided for the cellular caller from the service provider.²

Florida law requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis, up to a maximum of 25 access lines per account bill.³ "Service identifier" is defined as the service number, access line, or other unique identifier assigned to a customer for purposes of routing calls to the E911 system.⁴ Consistent with the statutory definition for "voice communications services provider"⁵, the fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice-over-Internet Protocol⁶ ("VoIP").

For customers who take service through a digital transmission link that can be channelized and split into 23 or 24 voice or data grade channels for communications (such as primary rate interface service or Digital Signal 1 level service), local exchange carriers are required by rule⁷ to bill the E911 fee on the basis of five access lines for each digital transmission link up to a maximum of 25 access lines per account bill. A customer using one digital transmission link for service is able to use that link for 23 or 24 voice or data channels. The rule assumes that five of those channels, on average, are used as voice lines with access to the E911 system, and the customer is billed the E911 fee for five lines. The rule does not currently apply to voice communications services providers other than local exchange carriers.

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 E911 Trust Fund to county governments and wireless providers in accordance with s. 365.173, F.S. The Board consists of nine members: the E911 system director (the secretary of the Department of Management Services or his or her designee) who serves as chair of the board; four county 911 coordinators; two local exchange carrier representatives; and two wireless telecommunications industry representatives recommended by the Florida Telecommunications Industry Association ("FTIA") in consultation with the wireless industry.⁸ According to the Florida Department of State, Division of Corporations website, the Florida Telecommunications Industry Association was voluntarily dissolved in June 2011.

Florida law protects voice communications services providers from liability for damages resulting from or in connection with 911 or E911 service or for identification of the telephone number, address, or

¹ Section 365.172, F.S. Originally cited as the "Wireless Emergency Communications Act," Chapter 99-367, L.O.F., codified in s. 365.172, F.S.

² Florida Department of Management Services, *Florida E911*, http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited Jan. 3, 2012).

³ Section 365.172(8), F.S.

⁴ Section 365.172(3)(z), F.S.

⁵ Section 365.172(3)(bb) and (cc), F.S.

⁶ Voice-over-Internet Protocol, or VoIP, is the method commonly used by traditional cable television service providers to provide voice communications service. In addition, companies referred to as "over-the-top" providers, like Vonage, use VoIP.

⁷ Rule 60FF1-5.007, Florida Administrative Code.

⁸ Section 365.172(5)(b), F.S.

name associated with any person accessing 911 or E911 service, absent malicious purpose or wanton and willful disregard of the rights, safety, or property of the person.⁹ Further, the law authorizes local governments to indemnify local exchange carriers against liability in accordance with the carrier's lawfully filed tariffs. Since 2009, however, local exchange carriers have not been required to file tariffs (i.e., rate schedules) with the Public Service Commission ("PSC"). Instead, these carriers are required to publish their rate schedules through electronic or physical media and to inform customers where the schedules can be viewed.

Chapter 427, Florida Statutes, establishes the Telecommunications Access System Act of 1991 (TASA). Pursuant to TASA, the PSC is responsible for establishing, implementing, promoting, and overseeing the administration of a statewide system to provide access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them.¹⁰ TASA establishes an advisory committee to assist the PSC. The advisory committee provides the expertise, experience, and perspective of people who are hearing impaired or speech impaired to the PSC regarding the operation of the telecommunications access system. The advisory committee consists of 10 members: two deaf persons; one hearing-impaired person; one deaf and blind person; one speech-impaired person; two representatives of telecommunications companies recommended by the Florida Telephone Association; one person with experience in providing relay services; one person recommended by the Advocacy Center for Persons with Disabilities; and one person recommended by the Florida League of Seniors.¹¹ According to the Florida Department of State, Division of Corporations website, the Florida Telephone Association was renamed the Florida Telecommunications Industry Association in May 1996.

Effect of Proposed Changes

HB 801 amends certain provisions of the Emergency Communications Number E911 Act to do the following:

- Modify industry membership on the E911 Board.
- Clarify the application of the E911 fee.
- Clarify the indemnification and liability provisions related to provision of 911 or E911 service with respect to non-voice communications.
- Reflect the recent dissolution of the FTIA.

The bill also amends the Telecommunications Access System Act of 1991 to reflect the dissolution of the FTIA.

E911 Board Membership

The bill amends s. 365.172(5)(b), F.S., to modify telecommunications industry representation on the E911 Board. The bill expands the number of local exchange carrier representatives on the E911 Board from two to three. The bill retains the requirement that one of these Board members represent the local exchange company with the greatest number of access lines in the state. The bill adds a requirement that one of these three Board members represent a competitive local exchange telecommunications company (e.g., a traditional landline competitive company or a cable voice service provider.) Finally, the bill reduces the number of wireless telecommunications industry representatives on the E911 Board from two to one. The bill retains the requirement that consideration be given to wireless providers that are not affiliated with local exchange carriers. To reflect the dissolution of the FTIA in June 2011, the bill removes the requirement that the wireless industry representative be recommended by the FTIA.

⁹ Section 365.172(11), F.S.

¹⁰ Section 427.704, F.S.

¹¹ Section 427.706, F.S.

E911 Fee

The bill amends s. 365.172(8)(a), F.S., to clarify and modernize application of the E911 fee. The bill amends subparagraph 1. to provide that all voice communications services providers other than wireless providers must bill the E911 fee to each subscriber based on the number of access lines with access to the E911 system, on a service-identifier basis. Based on the applicable definition of "voice communications services provider," this provision should encompass every voice communications technology that is required by the Federal Communications Commission ("FCC") to provide E911 service, including VoIP, other than wireless service. The bill retains the existing provisions related to collection of the E911 fee by wireless service providers. The bill also retains the existing provision that limits application of the E911 fee to a maximum of 25 access lines per account bill.

The bill creates a new provision as subparagraph 2. to establish how voice communications services providers other than wireless providers will bill the E911 fee to customers that use a digital transmission link that can be channelized and split into 23 or 24 voice or data grade channels for communications. Consistent with the existing rule of the E911 Board and FCC practice, these customers will be billed the fee for five service-identified access lines for each digital transmission link, up to a maximum of 25 access lines per account bill. The bill provides that a "digital transmission link" includes primary rate interface service or equivalent Digital Signal 1 level service.

The bill retains provisions in s. 365.172(8)(a), F.S., that specify how voice communications services providers other than those previously described must bill the E911 fee. It is not clear that this provision is still necessary, as the provisions of the bill discussed above appear to address all voice communications services providers.

Indemnification and Liability

Section 365.172(11), F.S., provides protection to voice communications services providers from liability for damages resulting from or in connection with 911 or E911 service. The bill provides a definition for the term "911 or E911 service" for purposes of that subsection. Specifically, the bill defines the term as

"a telecommunications service, voice or nonvoice communications service, or other wireline or wireless service, including, but not limited to, a service using Internet protocol, which provides, in whole or in part, any of the following functions: providing members of the public with the ability to reach an answering point by using the digits 9-1-1; directing 911 calls to answering points by selective routing; providing for automatic number identification and automatic location-identification features; or providing wireless E911 services as defined [by specified orders of the FCC]."

The bill appears to clarify application of the existing liability provisions to include services that are capable of providing access to the E911 system for nonvoice communications (e.g., text, data, images and video). These "Next Generation 911" systems are currently being developed.

Further, the bill reflects that local exchange carriers are no longer required to file tariffs with the PSC. To do this, the bill provides that local governments may indemnify a local exchange carrier against liability in accordance with the carrier's lawfully published rate schedules, rather than its filed tariffs.

Miscellaneous Provisions

The Telecommunications Access System Act of 1991 establishes an advisory committee to assist the PSC in implementing, promoting, and overseeing the administration of a statewide system to provide access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them. The bill amends s. 427.706(1), F.S., to remove an obsolete reference to the role of the Florida Telephone Association ("FTA") in recommending members to be appointed to the advisory committee. The FTA was renamed the FTIA in 1996, and the FTIA has

since been dissolved. The bill does not otherwise change the existing membership of the advisory committee.

The bill makes conforming changes to cross-references and makes other technical changes.

B. SECTION DIRECTORY:

Section 1. Amends s. 365.172, F.S., relating to the Emergency Communications Number E911 Act.

Section 2. Amends s. 427.706, F.S., relating to the advisory committee created to assist the Public Service Commission in implementing the Telecommunications Access System Act of 1991.

Section 3. Provides an effective date of July 1, 2012.

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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This 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:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill retains provisions in s. 365.172(8)(a), F.S., that specify how voice communications services providers other than those already identified in the law must bill the E911 fee. It is not clear that this provision is still necessary, as the provisions of the bill appear to apply to all voice communications services providers.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 801 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee
3 Representative Steube offered the following:

4
5 **Amendment**

6 Remove line 91 and insert:

7 a. An ~~No~~ E911 fee may not ~~shall~~ be collected from the sale
8

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 801 (2012)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee
3 Representative Steube offered the following:

4
5 **Amendment (with title amendment)**

6 Remove line 154 and insert:

7 "911 or E911 service" means a

8
9
10
11 -----
12 **T I T L E A M E N D M E N T**

13 Remove line 15 and insert:

14 "911 or E911 service"; amending s. 427.706,
15

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 801 (2012)

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee
3 Representative Steube offered the following:

4
5 **Amendment**
6 Remove line 164 and insert:
7 defined in the order.
8

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 801 (2012)

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee
3 Representative Passidomo offered the following:
4

5 **Amendment (with title amendment)**

6 Between lines 182 and 183, insert:

7 Section 3. Subsection (12) of section 365.171, Florida
8 Statutes, is amended to read:

9 365.171 Emergency communications number E911 state plan.-
10 (12) CONFIDENTIALITY OF RECORDS.-

11 (a) Any record, recording, or information, or portions
12 thereof, obtained by a public agency or a public safety agency
13 for the purpose of providing services in an emergency and which
14 reveals the name, address, telephone number, or personal
15 information about, or information which may identify any person
16 requesting emergency service or reporting an emergency by
17 accessing an emergency communications E911 system is
18 confidential and exempt from the provisions of s. 119.07(1) and
19 s. 24(a), Art. I of the State Constitution, except that such

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COMMITTEE/SUBCOMMITTEE AMENDMENT

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Amendment No. 4

20 record or information may be disclosed to a public safety
21 agency. The exemption applies only to the name, address,
22 telephone number or personal information about, or information
23 which may identify any person requesting emergency services or
24 reporting an emergency while such information is in the custody
25 of the public agency or public safety agency providing emergency
26 services. A telecommunications company or commercial mobile
27 radio service provider shall not be liable for damages to any
28 person resulting from or in connection with such telephone
29 company's or commercial mobile radio service provider's
30 provision of any lawful assistance to any investigative or law
31 enforcement officer of the State of Florida or political
32 subdivisions thereof, of the United States, or of any other
33 state or political subdivision thereof, in connection with any
34 lawful investigation or other law enforcement activity by such
35 law enforcement officer unless the telecommunications company or
36 commercial mobile radio service provider acted in a wanton and
37 willful manner.

38 (b) Notwithstanding paragraph (a), a 911 public safety
39 telecommunicator, as defined in s. 401.465, may contact any
40 private person or entity that owns an automated external
41 defibrillator who has notified the local emergency medical
42 services medical director or public safety answering point of
43 such ownership if a confirmed coronary emergency call is taking
44 place and the location of the coronary emergency is within a
45 reasonable distance from the location of the defibrillator, and
46 may provide the location of the coronary emergency to that
47 person or entity.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 801 (2012)

Amendment No. 4

48 Section 4. Paragraph (b) of subsection (2) of section
49 401.2915, Florida Statutes, is amended to read:

50 401.2915 Automated external defibrillators.—It is the
51 intent of the Legislature that an automated external
52 defibrillator may be used by any person for the purpose of
53 saving the life of another person in cardiac arrest. In order to
54 achieve that goal, the Legislature intends to encourage training
55 in lifesaving first aid and set standards for and encourage the
56 use of automated external defibrillators.

57 (2) In order to promote public health and safety:

58 (b) Any person or entity in possession of an automated
59 external defibrillator is encouraged to notify the local
60 emergency medical services medical director or the local public
61 safety answering point, as defined in s. 365.172(3), of the
62 location of the automated external defibrillator.

63
64
65
66
67 -----
68 **T I T L E A M E N D M E N T**

69 Remove line 19 and insert:

70 Service Commission; amending s. 365.171, F.S.; providing an
71 exception to certain confidentiality provisions for a 911 public
72 safety telecommunicator when a confirmed coronary emergency call
73 is taking place; amending s. 401.2915, F.S.; encouraging certain
74 persons to notify the local public safety answering point of the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 801 (2012)

Amendment No. 4

75 location of an automated external defibrillator; providing an
76 effective date.

77

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1 A bill to be entitled
 2 An act relating to emergency 911 service; amending s.
 3 365.172, F.S.; revising the qualifications required
 4 for the members of the E911 Board; requiring that a
 5 voice communications service provider, other than a
 6 wireless service provider, impose a fee based on the
 7 number of access lines to the E911 system and on the
 8 basis of certain access lines for each digital
 9 transmission link, up to a specified number of access
 10 lines per account bill rendered; revising the criteria
 11 that a local government may use in order to indemnify
 12 a local carrier; expanding the types of providers that
 13 may be indemnified and that are not liable for certain
 14 damages; revising cross-references; defining the term
 15 "provide 911 or E911 service"; amending s. 427.706,
 16 F.S.; removing the requirement that the Florida
 17 Telephone Association recommend certain
 18 representatives to an advisory committee to the Public
 19 Service Commission; providing an effective date.

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

23 Section 1. Paragraphs (a) and (b) of subsection (5),
 24 paragraphs (a) and (e) of subsection (8), and subsection (11) of
 25 section 365.172, Florida Statutes, are amended to read:

26 365.172 Emergency communications number "E911."—

27 (5) THE E911 BOARD.—

28 (a) The E911 Board is established to administer, with

29 oversight by the office, the fee imposed under subsection (8),
 30 including receiving revenues derived from the fee; distributing
 31 portions of the revenues to wireless providers, counties, and
 32 the office; accounting for receipts, distributions, and income
 33 derived by the funds maintained in the fund; and providing
 34 annual reports to the Governor and the Legislature for
 35 submission by the office on amounts collected and expended, the
 36 purposes for which expenditures have been made, and the status
 37 of E911 service in this state. In order to advise and assist the
 38 office in implementing ~~carrying out~~ the purposes of this
 39 section, the board, which has ~~shall have~~ the power of a body
 40 corporate, has the powers enumerated in subsection (6).

41 (b) The board shall consist of nine members, one of whom
 42 must be the system director designated under s. 365.171(5), or
 43 his or her designee, who shall serve as the chair of the board.
 44 The remaining eight members of the board shall be appointed by
 45 the Governor and must be composed of four county 911
 46 coordinators, consisting of a representative from a rural
 47 county, a representative from a medium county, a representative
 48 from a large county, and an at-large representative recommended
 49 by the Florida Association of Counties in consultation with the
 50 county 911 coordinators; three ~~two~~ local exchange carrier member
 51 representatives ~~members~~, one of whom ~~which~~ must be a
 52 representative of the local exchange carrier having the greatest
 53 number of access lines in the state and one of whom must be a
 54 representative of a certificated competitive local exchange
 55 telecommunications company; and one member representative ~~two~~
 56 ~~members~~ from the wireless telecommunications industry, with

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57 ~~recommended by the Florida Telecommunications Industry~~
 58 ~~Association in consultation with the wireless telecommunications~~
 59 ~~industry. In recommending members from the wireless~~
 60 ~~telecommunications industry,~~ consideration must be given to
 61 wireless providers that ~~who~~ are not affiliated with local
 62 exchange carriers. Not more than one member may be appointed to
 63 represent any single provider on the board.

64 (8) E911 FEE.—

65 (a) Each voice communications services provider shall
 66 collect the fee described in this subsection. Each provider, as
 67 part of its monthly billing process, shall bill the fee as
 68 follows. The fee may ~~shall~~ not be assessed on any pay telephone
 69 in the state.

70 1. Each voice communications service provider other than a
 71 wireless provider local exchange carrier shall bill the fee to a
 72 subscriber based on the number of access lines having access to
 73 the E911 system, the local exchange subscribers on a service-
 74 identifier basis, up to a maximum of 25 access lines per account
 75 bill rendered.

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

84 3.2. Except in the case of prepaid wireless service, each

85 wireless provider shall bill the fee to a subscriber on a per-
 86 service-identifier basis for service identifiers whose primary
 87 place of use is within this state. Before July 1, 2013, the fee
 88 may ~~shall~~ not be assessed on or collected from a provider with
 89 respect to an end user's service if that end user's service is a
 90 prepaid calling arrangement that is subject to s. 212.05(1)(e).

91 a. A ~~No~~ E911 fee may not ~~shall~~ be collected from the sale
 92 of prepaid wireless service before ~~prior to~~ July 1, 2013.

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

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

99 (II) "Prepaid wireless service providers" includes those
 100 persons who sell prepaid wireless service regardless of its
 101 form, ~~either~~ as a retailer or reseller.

102 4.3. ~~The~~ All voice communications services providers not
 103 addressed under subparagraphs 1., 2., and 3. ~~2.~~ shall bill the
 104 fee on a per-service-identifier basis for service identifiers
 105 whose primary place of use is within the state up to a maximum
 106 of 25 service identifiers for each account bill rendered.

107
 108 The provider may list the fee as a separate entry on each bill,
 109 in which case the fee must be identified as a fee for E911
 110 services. A provider shall remit the fee to the board only if
 111 the fee is paid by the subscriber. If a provider receives a
 112 partial payment for a monthly bill from a subscriber, the amount

113 received shall first be applied to the payment due the provider
 114 for providing voice communications service.

115 (e) Effective September 1, 2007, voice communications
 116 services providers billing the fee to subscribers shall deliver
 117 revenues from the fee to the board within 60 days after the end
 118 of the month in which the fee was billed, together with a
 119 monthly report of the number of service identifiers in each
 120 county. Each wireless provider and other applicable provider
 121 identified in subparagraph (a)4. ~~(a)3.~~ shall report the number
 122 of service identifiers for subscribers whose place of primary
 123 use is in each county. All provider subscriber information
 124 provided to the board is subject to s. 365.174. If a provider
 125 chooses to remit any fee amounts to the board before they are
 126 paid by the subscribers, a provider may apply to the board for a
 127 refund of, or may take a credit for, any such fees remitted to
 128 the board which are not collected by the provider within 6
 129 months following the month in which the fees are charged off for
 130 federal income tax purposes as bad debt.

131 (11) INDEMNIFICATION AND LIMITATION OF LIABILITY.—A local
 132 government may ~~governments are authorized to undertake to~~
 133 indemnify local exchange carriers against liability in
 134 accordance with the published schedules ~~lawfully filed tariffs~~
 135 of the company. Notwithstanding an indemnification agreement, a
 136 local exchange carrier, voice communications services provider,
 137 or other service provider that provides 911 or E911 service on a
 138 retail or wholesale basis is not liable for damages resulting
 139 from or in connection with 911 or E911 service, or for
 140 identification of the telephone number, or address, or name

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141 associated with any person accessing 911 or E911 service, unless
 142 the carrier or ~~the voice communications services~~ provider acted
 143 with malicious purpose or in a manner exhibiting wanton and
 144 willful disregard of the rights, safety, or property of a person
 145 when providing such services. A carrier or ~~voice communications~~
 146 ~~services~~ provider is not liable for damages to any person
 147 resulting from or in connection with the carrier's or provider's
 148 provision of any lawful assistance to any investigative or law
 149 enforcement officer of the United States, this state, or a
 150 political subdivision thereof, or of any other state or
 151 political subdivision thereof, in connection with any lawful
 152 investigation or other law enforcement activity by such law
 153 enforcement officer. For purposes of this subsection, the term
 154 "provide 911 or E911 service" means to provide a
 155 telecommunications service, voice or nonvoice communications
 156 service, or other wireline or wireless service, including, but
 157 not limited to, a service using Internet protocol, which
 158 provides, in whole or in part, any of the following functions:
 159 providing members of the public with the ability to reach an
 160 answering point by using the digits 9-1-1; directing 911 calls
 161 to answering points by selective routing; providing for
 162 automatic number identification and automatic location-
 163 identification features; or providing wireless E911 services as
 164 defined in an order.

165 Section 2. Paragraph (e) of subsection (1) and subsection
 166 (3) of section 427.706, Florida Statutes, are amended to read:
 167 427.706 Advisory committee.—

168 (1) The commission shall appoint an advisory committee to

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169 assist the commission with the implementation of the provisions
 170 of this part. The committee shall be composed of no more than 10
 171 persons and shall include, to the extent practicable, the
 172 following:

173 (e) Two representatives of telecommunications companies,
 174 one representing a local exchange telecommunications company and
 175 one representing an interexchange telecommunications company,
 176 ~~recommended by the Florida Telephone Association.~~

177 (3) Members of the committee may ~~shall~~ not be compensated
 178 for their services but are ~~shall be~~ entitled to receive
 179 reimbursement for per diem and travel expenses as provided in s.
 180 112.061. The commission shall use funds from the Florida Public
 181 Service Regulatory Trust Fund to cover the costs incurred by
 182 members of the advisory committee.

183 Section 3. This act shall take effect July 1, 2012.