

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1450

SPONSOR: Comprehensive Planning Committee, Communication & Public Utilities Committee & Senator Bennett

SUBJECT: Emergency Communications

DATE: April 14, 2003 REVISED: 4/15/03 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.	Cooper	Yeatman	CP	Fav/CS
3.	Fournier	Johansen	FT	Fav/1 amendment
4.			AGG	
5.			AP	
6.				

I. Summary:

The CS facilitates implementation of 911 service, imposes the wireless 911 fee on prepaid wireless customers, grants new authority to the Wireless 911 Board, authorizes use of current funding to pay costs of exercise of the new authority, and requires that all private branch exchanges constructed after January 1, 2004, be capable of providing automatic location identification.

This CS substantially amends sections 365.172 and 365.173 of the Florida Statutes. It also creates section 365.175 of the Florida Statutes.

II. Present Situation:

Federal law requires the Federal Communications Commission (FCC) to encourage and support efforts by the states to deploy emergency communications infrastructure and programs.¹ The FCC's 911 rules require, in part, that when a county requests enhanced 911 service (E911), the wireless provider must provide enhanced service within six months of the request to 50 percent of its coverage area.²

The wireless 911 emergency telephone system is funded, in part, by a fee of 50 cents per month on each telephone service number.³ The fee is collected by the service providers as a part of their

¹ 47 U.S.C. s. 615.

² 47 C.F.R. s. 18.

³ s. 365.172(8), F.S.

monthly billing.⁴ The collected fees, minus one percent retained as reimbursement for administrative costs, are delivered to the Wireless 911 Board.⁵

The Board is responsible for administration of the fee.⁶ Collected fees are deposited into the Wireless Emergency Telephone System Fund.⁷ Forty-four percent of the fees is distributed each month to counties for payment of their 911 service costs, fifty-four percent is distributed to 911 providers, and two percent is distributed to rural counties to provide facilities and network and service enhancements and assistance for their 911 systems.⁸ The Board receives its funding by retaining up to two percent of funds allocated to 911 service providers.⁹ These funds are to be used for costs and expenses incurred for managing, administering, and overseeing the receipts and disbursements from the Fund.¹⁰

III. Effect of Proposed Changes:

Facilitation of implementation of 911 service

Section 1 creates s. 365.172(11), F.S., to provide for facilitation of implementation of 911 service. The subsection provides that, notwithstanding any other law or local ordinance to the contrary, the following provisions will apply to siting of wireless facilities:

- Co-location of any antennae and related equipment to service the antennae on an existing structure is exempt from land development regulation, provided the height of the existing facility is not increased. Construction of the new facility is subject to local building regulations, generally accepted engineering standards, and any existing permits.
- Local governments are prohibited from requiring wireless companies to provide evidence of compliance with federal regulations. They are permitted to require evidence of proper federal licensure.
- A local government is required to act on an application for a permit for co-location of a wireless facility within 30 business days from the date the properly completed application is submitted in accordance with applicable government application procedures and to act on an application for a permit for a new facility within 75 business days of such an application, provided that the permit complies with applicable zoning. The permit is deemed approved if not timely approved or denied.
- In addition, the local government must notify the applicant within 15 business days whether the application is properly completed and has been properly submitted. The notice must specifically indicate any deficiencies. If the local government fails to act on the application, it is deemed to be approved. Local governments may request a waiver of this deadline, for up to 45 days, under certain conditions. Any waiver must be voluntarily agreed to by all affected parties to be effective.

⁴ s. 365.172(9), F.S.

⁵ s. 365.172(9), F.S.

⁶ s. 365.172(5), F.S.

⁷ s. 365.173, F.S.

⁸ s. 365.173, F.S.

⁹ s. 365.173, F.S.

¹⁰ s. 365.173, F.S.

- Any additional facilities needed at a secured equipment compound at an existing site to comply with federal Phase II E911 requirements are deemed a permitted use or activity.
- The Department of Management Services and the Department of Transportation are required to negotiate leases of state-owned property for siting of wireless facilities. Lease fees are required to be reasonable and to reflect the market rate for use of state-owned property.
- The counties are required to provide a map to the E911 wireless board showing areas where a communications tower is not a permitted use; service providers are allowed to respond that constructing facilities in such areas may be necessary to comply with federal Phase II E911 requirements; and the E911 wireless board is required to report this information to the Governor and Legislature by February 28, 2004, in their annual report.

Assessment and Collection of monthly wireless 911 surcharge

This section also amends s. 365.172(3) and (9), F.S., to provide specific authority to impose the monthly wireless 911 surcharge on prepaid wireless telephone services (prepaid cards), to provide for collection of the surcharge, and to define related terms. For prepaid wireless telephone service, the 50 cent monthly wireless 911 surcharge is collected only from each wireless service customer that has a sufficient positive balance as of the last day of each month. As direct billing may not be possible, the surcharge amount, or an equivalent number of minutes, may be reduced from the prepaid subscriber's account.

Authority of the Wireless 911 Board

This section also amends s. 365.172(6), F.S., to give new authority to the board of directors of the Wireless 911 Board. The Board would be authorized to:

- Provide coordination, support, and technical assistance to counties to promote the deployment of advanced 911 and E911 systems in the state;
- Provide coordination and support for educational opportunities related to 911 issues for the 911 community in this state;
- Act as an advocate for issues related to 911 system functions, features, and operations to improve the delivery of 911 services to the residents of and visitors to this state;
- Coordinate input from this state at national forums and associations, to ensure that policies related to 911 systems and services are consistent with the policies of the 911 community in this state; and
- Work cooperatively with the system director to enhance the state of 911 services in this state and to provide unified leadership for all 911 issues through planning and coordination.

This section also amends s. 365.172(7), F.S., to change the methods by which the Wireless 911 Board may secure services of an accounting firm, to allow the Board to hire accounting staff to perform accounting functions, and to grant general authority for the Board to hire staff to perform technical functions.

Use of Board funds

Section 2 amends s. 365.173(2), F.S., to authorize the Board to use its funding for activities as defined in s. 365.172(6), F.S., which would allow use of funds to cover costs and expenses of exercising the new authority discussed above.

Private telephone system requirements

Section 3 creates s. 365.175, F.S., to require that all private branch exchanges constructed after January 1, 2004, be capable of providing automatic location identification. A private branch exchange is a private telephone system that is connected to the public switched telephone system. Automatic location identification means the automatic display at the public safety agency that receives 911 calls of the caller's telephone number, the address or location of the telephone, and supplementary emergency services information.

Section 4 provides that the CS takes effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Staff of the Information Technology Office of the Department of Management Services estimate that for FY 2003/04, wireless 911 fees imposed on prepaid wireless telephone services will generate \$12 million for the Wireless Emergency Telephone system Fund. Six and one-half million dollars will be appropriated by the state to 911 providers, and \$5.5 million will be distributed to counties for payment of their 911 service costs.

B. Private Sector Impact:

Purchasers of prepaid wireless telephone services will be assessed monthly wireless 911 fees, which are \$0.50 per month.

Wireless companies will be able to site facilities quicker, easier, and, in some cases, in places that are not currently available. This will improve service in those areas where new facilities are sited, including E911 location services.

C. Government Sector Impact:

If the state and local governments enter into leases to site wireless facilities, they will have lease revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Finance and Taxation:

This amendment extends timeframes for local government review of wireless communication facilities, requires the permitholder or owner of any such facility to comply with all applicable conditions or requirements of a permit, agreement, or land development regulation, including any aesthetic requirements, or law. It also amends the requirements for a report due to the Governor and Legislature.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
