



SENATE OF PENNSYLVANIA BILL SUMMARY

House Bill 911 Printer's No. 1331

Prime Sponsor: Barrar
Committee: Veterans Affairs and Emergency Preparedness

SYNOPSIS:

Amends Title 35 (Health and Safety) relating to 911 emergency communications.

SUMMARY:

HB 911 comprehensively amends Title 35 Chapter 53, relating to emergency telephone service, to update and enhance PA's 911 emergency communications law.

Section 5303 -- Telecommunications Management

Under this section, the powers and duties of the Pennsylvania Emergency Management Agency (PEMA) are delineated. In addition, a 911 board is established and provided powers and duties. Major provisions, not administrative in nature, relating to the powers and duties of PEMA are as follows:

PEMA:

- Publish guidelines for the collection and distribution of the 911 surcharge.
- Establish a Statewide 911 plan, setting forth priorities for 911 systems in the Commonwealth, including plans regarding Next Generation 911 (NG911) technology.
- Designate a State 911 coordinator from among existing agency staff.
- Establish formulas and methods for the distribution of the revenues from the surcharge.
- Establish uniform standards for technology, NG911 technology, administration and operation of 911 systems and to publish the standards and eligible costs for equipment, technology and personnel annually.
- Perform audits of or request reports from any entity remitting the surcharge or receiving any disbursement from the fund and to issue subpoenas and compel production of material for such audits and revenues of providers and county PSAPS.
- Report to the General Assembly annually on the status of the 911 system and fund.
- Take any action necessary to implement or enforce Chapter 53.

911 Board:

The 911 board is established and is comprised of the following:

1. The four respective chairs of the House and Senate Veterans Affairs and Emergency Preparedness Committees.
2. PEMA Director
3. State 911 Coordinator

4. Four county commissioners or home rule equivalent, recommended by the County Commissioners Association of PA
5. Four county or regional 911 coordinators, recommended by NENA and APCO
6. Four representatives from the provider community representing each type
7. PA State Police representative as a nonvoting member

- Members of the board under numbers 4, 5 and 6 above shall serve terms of two years but not more than three consecutive terms and must have adequate knowledge of 911 systems and represent the western, central and eastern regions of PA.
 - Governor makes initial appointments within 90 days of the effective date of the act.
 - Initial terms of members appointed are to be divided between one and two year terms.
- 12 members constitute a quorum and $\frac{3}{4}$ consent is required for any action taken.
- Must meet at least quarterly and at any special session called by the Chair.
- Members serve without compensation, but shall be reimbursed for necessary travel and other expenses.

911 Board Powers and Duties:

- Advise PEMA on regulations and guidelines related to the following:
 - Standards for performance reviews and quality assurance as well as training standards for dispatchers, call takers and supervisors.
 - Cost saving measures.
 - Measures to promote regionalization of Public Safety Answering Points (PSAPS) and NG 911 technology and its deployment.
- Establish communication program between PEMA and county coordinators to share information and develop recommendations to improve 911 systems.
- Provide advice/recommendations to PEMA on distribution formulas/methods.
- Promote regional use of technology, information sharing, and deployment of next generation 911 technology.

Section 5304 - Counties

The major powers and duties of the counties are as follows:

- To ensure the provision of a 911 system for their respective jurisdictions.
- To develop and maintain a 911 system plan to be reviewed and approved by PEMA.
- To designate a 911 coordinator to be responsible for the 911 plan and compliance with Chapter 53.

Cities of the second class, second class A and third class will no longer have an exemption to operate as 911 centers with authority to receive funding from the surcharge; however, they are authorized to join a county or regional 911 system.

Section 5305 – 911 System Plan

This section requires counties to establish 911 system plans that meet the minimum standards provided for under Chapter 53, which includes voluntary regionalization and consolidation in addition to plans for NG 911 implementation.

Furthermore, the board shall review each 911 system plan for approval or disapproval and if disapproved, the plan is to be returned with deficiencies explained.

Section 5306.1 – 911 Fund

A nonlapsing restricted interest-bearing account is established in the State Treasury known as the 911 Fund, which shall consist of the following:

- The surcharge proceeds required to be remitted under Chapter 53.
- Any money appropriated by the General Assembly.
- Public and private money from any source.
- Interest from the fund.

Use of Funds:

The money from the fund shall only be used for the following:

- Reasonably necessary costs that enhance, operate or maintain a 911 system, as determined by PEMA in consultation with the board, and consistent with the following:
 - Factors established by PEMA for determining reasonable costs, which shall be provided annually through PEMA guidelines.
 - Costs that include the enhancement of operations or the maintenance of statewide interconnectivity of 911 systems or to establish a capital or operating reserve consistent with approved 911 system plans.
- Money from the fund shall not be transferred to the General Fund of the Commonwealth or counties.

Distribution:

- On a quarterly basis, PEMA must determine the amount available in the fund and within 30 days, disburse the funds to the 911 systems according to the following formula:
 - At least 75% according to a mathematical formula established by PEMA.
 - 12% at PEMA’s discretion for initiatives that will improve 911 systems in PA.
 - Up to 6% to establish, enhance, operate or maintain Statewide interconnectivity of 911 systems, including, but not limited to, the use or obligations of money for debt service related to regional or Statewide interconnectivity.
 - 5% disbursed equally to 911 systems, and any consolidations acted upon after the effective date of the act shall not have any allocated disbursement reduced.
 - Up to 2% may be retained by PEMA for administrative purposes. Any excess funds shall be added to the 75% formula-driven portion, above.

Formula Considerations:

- PEMA shall consider the following formula distribution criteria:
 - Must fairly and proportionately reflect 911 system needs.
 - The initial distribution formula shall be established and implemented no later than 18 months from the effective date of the act.
 - The formula shall be reviewed every two years and may be adjusted annually.
 - The following factors shall be considered and may be included:
 - Common base level costs.
 - Population, including high or low density.
 - Call volume, including what constitutes a call as published by PEMA.

- Extenuating factors such as:
 1. Topography.
 2. Transit or industrial facilities.
 3. Cyclical exposures such as high-attendance public events.
- A 911 system's average reported allowable costs for the five years preceding the effective date of the act.
- The total annual disbursement to any one 911 system shall not exceed the actual costs as determined by PEMA in accordance with the provisions of the act. Actual costs may include:
 - Amortization or depreciation of allowable capital costs, which are to be determined by using generally accepted accounting principles and approved plan allocations to capital and operating reserves.

Interim Formula:

- Until PEMA establishes and implements the distribution formula for 911 systems, the following interim disbursement formula shall be utilized:
 - 106% times the respective 911 system's average local exchange telephone carrier's surcharge collections for five years preceding the effective date of the act.
 - 106% times the respective 911 system's average of VoIP provider's surcharge collections for the five years preceding the effective date of the act.
 - The remaining amount shall be distributed based on the ratio a 911 system's average reported allowable costs bear to the average reported allowable costs for all 911 systems for the five years preceding the effective date of the act.

Surplus:

- If excess money remains in the fund after the required disbursements, PEMA shall distribute the remainder to the 75% formula driven share.
- If a surplus exists, PEMA shall provide written notice to the General Assembly with a recommended reduced surcharge amount for its consideration.
- The written notice shall be submitted within 60 days after the end of the 8th consecutive quarter of a surplus.

Audits:

- The fund shall be audited in a manner consistent with Commonwealth administered restricted receipts accounts.
- PEMA shall require biennial performance audits of each 911 system's use of 911 surcharge funds, which shall include amounts placed in capital/operating reserves consistent with published guidelines established by PEMA, and the costs of each audit shall be paid from the fund.

Section 5306.2 - Uniform 911 Surcharge

Surcharge:

A uniform surcharge of \$1.65 is imposed on all 911 communication service or prepaid wireless devices providing 911 communications as required under federal law. Each subscriber or consumer shall pay the surcharge for which that subscriber or consumer is billed by the provider or seller. The surcharge shall be subject to the following requirements:

- Shall be uniform, competitively neutral and in equal amount for all subscribers.

- With the exception of prepaid, the surcharge is to be paid to the State Treasurer to be placed in the fund.
- No subscriber or consumer shall be required to pay more than one surcharge per number or device.
- Each provider collecting the surcharge may retain up to 1% of the gross receipts for administrative costs.

Collection of Surcharge:

The collection of the surcharge shall be subject to the following:

- It shall be collected on behalf of PEMA and the provider shall have no legal obligation to take any legal action to enforce the collection of the surcharge. Action may be taken on behalf of PEMA and upon written request each provider shall annually provide a list of the name and address of those subscribers whose accounts are considered a bad debt and who have failed to pay the surcharge.
- Providers are not responsible for the unpaid amounts.
- The provider shall remit to the State Treasurer any lesser amounts when a partial payment of a monthly bill is applied first to the amount owed by the subscriber.
- The surcharge shall not be subject to any tax or charge levied by the Commonwealth, political subdivision or intergovernmental agency for 911 purposes and shall not be considered revenue of the provider.
- Nothing shall prevent the provider from recovering the costs of implementing and maintaining 911 communications service.

Section 5307 - Payment, Collection and Remittance of Surcharge by Providers of 911 Communication Services

Collection and Remittance of Surcharge:

As is the current process, the surcharge is applied to a subscriber’s post-paid (monthly) bill and is remitted to the State Treasurer to be deposited into the fund.

For “multi-line” telephone systems the following multipliers shall be applied accordingly:

- 1 – 25 lines are to be assessed the full surcharge.
- 26 – 100 lines are assessed at 75% of the surcharge.
- 101 – 250 lines are assessed at 50% of the surcharge.
- 251 – 500 lines are assessed at 20% of the surcharge.
- 501 plus lines are assessed at 17.2% of the surcharge.

A subscriber shall be assessed 12 surcharges beginning July 1, 2015 for the following:

- Each digital transmission link, including primary interface service.
- Digital Signal – 1 (DS-1) level service or equivalent; channelized and split into 23 or 24 voice-grade or date-grade channels for voice communications that provides a subscriber access to a PSAP to a dedicated 911 system when the digits 9-1-1 are dialed.

At no time shall a subscriber or provider be held responsible retroactively for collection of more than one surcharge for the following services if the surcharge was paid or collected on the basis that it is prior to effective date of the act:

- ISDN PRI

- DS-1
- T-1

At no time shall the surcharge on VoIP service be applied to more than the number of VoIP lines for which the VoIP service providers enables the capacity for simultaneous calls regardless of actual usage, to be connected to the public switched telephone network.

Section 5307.1 - Payment, Collection, and Remittance of Surcharge by Sellers of Prepaid Wireless Telecommunications Service.

Surcharge:

As is the current process, the surcharge is applied at the point-of-sale (POS) when a prepaid device or service is purchased, and is remitted to the Department of Revenue to be deposited into the fund.

The surcharge is the liability of the consumer and the proceeds are to be remitted in the same manner as is required for State sales tax receipts. In addition, the surcharge shall not be included in the base for measuring a tax, fee, surcharge or other charge that is imposed by another government entity, nor shall any other surcharge be imposed by any other government entity on the sale of any prepaid device or service.

Sellers (retailers) are authorized to keep 1.5% of the surcharge for administrative purposes.

The Department of Revenue shall do the following:

- Establish procedures for sellers of prepaid wireless telecommunications service to document that a sale is not a retail transaction when the sale is a resale.
- Remit all surcharges to the State Treasurer for deposit within 30 days.
- If necessary, retain 2% of remitted surcharges for administration costs directly related to the remittance of the surcharges.

Section 5310 - Penalty

Information Disclosure:

A person commits a 3rd degree misdemeanor if he/she:

- Uses or discloses database information for purposes in conflict with the act without the consent of the subscriber or customer.
- Knowingly uses any of the following to avoid any charges for the services of a provider:
 - Telephone or database information of a 911 system.
 - Other emergency communications service.
 - NG 911 service or successor service.
 - VoIP service.

Section 5311.1 - Immunity

A person, officer, director, employee, vendor or agent that establishes, operates, enhances or maintains a 911 system in PA will be immune from civil liability regarding the system design, installation, enhancement or operation, except in cases of willful or wanton misconduct.

Sovereign Immunity:

No provision of Chapter 53 is to be construed as waiving sovereign immunity unless the General Assembly specifically waives such immunity, nor are any of the immunity provision under Title 42 (Judicial Code) waived.

Specific Immunity:

Certain persons under the act shall not be liable to any person who directly or indirectly uses the 911 communications service or wireless 911 service established under Chapter 53 or who accesses a 911 system or provides information to 911 systems for the effective execution of the purposes provided for under the chapter, which include the use of information to ascertain the effectiveness of the 911 delivery system.

Section 5311.7 - Prohibition Against Release of Information

Language is added to clarify that information is to remain confidential and cannot be released by an employee of the Commonwealth or government agency except for aggregations of information that do not effectively identify proprietary information.

Sections 5311.15 –5311.25 Multi-Line Telephone Service

Shared residential and business MLTS must ensure that a telecommunications system is connected to a public switched telephone network so that 911 calls result in the distinctive display of an ANI and ALI for each individual living unit and at least the building and floor location of the caller for a business.

- Businesses with workspaces less than 7,000 sq. ft. on a single level are only required to provide one ERL.
- For temporary residences, only location information shall be provided.
- MLTS operators must maintain and update the ALI database with an MSAG and valid address and call back information.
- Accuracy of information is to be audited at least once annually.
- All 911 calls must go straight to a PSAP and the dialing of other numbers is prohibited.
- MLTS operators must receive training/education on MLTS systems and 911 access.

Section 5313 - Legislative Report

PEMA is required to submit a report to the General Assembly within two years from the effective date of the act, including the following:

- Recommendations on the impact of current and anticipated technological and market changes regarding 911 service.
- The structure and adequacy of the surcharge as well as the fund.

Section 5314 – Inventory

PEMA, in consultation of with the PA State Police and board shall conduct a comprehensive inventory of a PSAP's assets, capabilities and NG911 build out needs.

Provides a non-exhaustive list of contents to be included in the inventory.

Counties must comply with these comprehensive inventory requirements within 45 days or they shall forfeit their right to state 911 funding.

PEMA is required to complete a report detailing its findings and recommendations to the General Assembly by October 31, 2015 and shall maintain and update the inventory biannually.

Expiration

Chapter 53 expires on June 30, 2019.

Effective dates:

The establishment of the board takes effect immediately.

The rest of the act takes effect July 1, 2015.

Current Law

Chapter 53 of Title 35 (Health and Safety) is entitled Emergency Telephone Service and governs the current 911 delivery system in the Commonwealth.

Under Section 5311.4, all wireless telephone devices under subsection (b) are surcharged a \$1.00 monthly 911 fee, and prepaid wireless cards/devices are surcharged a \$1.00 point of retail sale 911 fee under subsection (b.1).

These 911 surcharge fees are then remitted to the state Wireless E-911 Emergency Services Fund for disbursement by PEMA to the 69 county and regional 911 centers, known as "Public Safety Answering Points" (PSAPs).

Landline telephones are surcharged \$1.00-\$1.50 per phone, depending on the class of county.

BILL HISTORY:

House Bill passed the House on May 4, 2015 by a vote of 134-59

Prepared by: Silcox 6/1/2015