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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 911 Session of 1997

INTRODUCED BY CIVERA, O'BRIEN, HERSHEY, VAN HORNE, RAYMOND,
KENNEY, SEMMEL, BOYES, READSHAW, FICHTER, TIGUE, GANNON,
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E. Z. TAYLOR, McNAUGHTON, LEH, MCGILL, RAMOS, ADOLPH, MELIO,
SEYFERT, ITKIN, PRESTON AND SERAFINI, APRIL 16, 1997

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, FEBRUARY 3, 1998

AN ACT

1 Amending the act of July 9, 1990 (P.L.340, No.78), entitled "An
2 act providing for a Statewide emergency telephone number 911
3 system; providing for contributions from telephone
4 subscribers; providing a penalty; and making a repeal,"
5 further providing for definitions, for the powers and duties
6 of the Pennsylvania Emergency Management Agency and the
7 Pennsylvania Public Utility Commission, for county plans, for
8 training, for telephone records, for rules and regulations
9 and for expenditures for mobile communications equipment; and
10 providing for immunity.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 2 of the act of July 9, 1990 (P.L.340,
14 No.78), known as the Public Safety Emergency Telephone Act,
15 amended December 18, 1992 (P.L.1373, No.170), is amended to
16 read:

17 Section 2. Definitions.

18 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:
3 "911 emergency communication system" or "911 system." A
4 system which permits a person dialing 911 by telephone to be
5 connected to a public safety answering point, via normal
6 telephone facilities, for the reporting of police, fire, medical
7 or other emergency situations.

8 "Agency." The Pennsylvania Emergency Management Agency.

9 "Commission." The Pennsylvania Public Utility Commission.

10 "Contribution rate." A fee assessed against a telephone
11 subscriber for the nonrecurring costs, maintenance and operating
12 costs of a 911 system. Counties of the first through second
13 class A may impose a monthly contribution rate in an amount not

14 to exceed \$1 per line on each local exchange access line.
 15 Counties of the third through fifth class may impose monthly
 16 contribution rates in an amount not to exceed \$1.25 per line on
 17 each local exchange access line. Counties of the sixth through
 18 eighth class may impose a monthly contribution rate in an amount
 19 not to exceed \$1.50 per line on each local exchange access line.
 20 The contribution rate may be used by counties for the expenses
 21 of implementing, expanding or upgrading a 911 system. Expenses
 22 eligible for reimbursement through the contribution rate shall
 23 include telephone terminal equipment, trunk line service
 24 installation, network changes, building of initial data base and
 25 any other nonrecurring costs to establish a 911 system. The
 26 contribution rate may also be used to fund recurring costs
 27 pursuant to section 8(b). Expenses not eligible for
 28 reimbursement through the contribution rate shall include
 29 purchase of real estate, cosmetic remodeling, central office
 30 upgrades, hiring [and training] of dispatchers, [mobile

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1 communications equipment,] ambulances, fire engines or other
 2 emergency vehicles, utilities, taxes and other expenses as
 3 determined by the [Department of Community Affairs] Pennsylvania
 4 Emergency Management Agency.

5 "Council." The Pennsylvania Emergency Management Council.

6 "County." The term shall include a city of the first class
 7 coterminous with a county.

8 "County plan." A document submitted by the county on a
 9 triennial basis to the [department] Pennsylvania Emergency
 10 Management Agency, outlining its proposed or existing 911
 11 system, including a contribution rate, for the forthcoming three
 12 years.

13 ["Department." The Department of Community Affairs of the
 14 Commonwealth.]

15 "Local exchange telephone service." The provision of
 16 telephonic message transmission within an exchange, as such is
 17 defined and described in tariffs filed with and approved by the
 18 commission.

19 "Person." The term includes a corporation, a partnership, an
 20 association, the Federal Government, the State government, a
 21 political subdivision, a municipal or other local authority, as
 22 well as a natural person.

23 "Public agency." The Commonwealth or a political
 24 subdivision, public authority, municipal authority or any
 25 organization located in whole or in part within this
 26 Commonwealth which provides or has the authority to provide
 27 firefighting, law enforcement, ambulance, emergency medical or
 28 other emergency services.

29 "Public safety answering point" or "PSAP." The first point
 30 at which calls for emergency assistance from individuals are

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1 answered, operated 24 hours a day.

2 "Telephone subscriber." A person who contracts with a
 3 telephone company within this Commonwealth for local exchange
 4 telephone service, either residential or commercial. When the
 5 same person has several telephone dial tone access lines, each
 6 dial tone access line shall constitute a separate subscription.
 7 For purposes of the contribution rate, the term shall not
 8 include pay stations owned or operated by a regulated public
 9 utility.

10 "Vendor." A person who supplies 911 system services or
 11 equipment.

12 Section 2. Sections 3, 4, 5, 8, 9(c) and 11 of the act are
 13 amended to read:

14 Section 3. Telecommunications management.

15 (a) Powers and duties of [department] agency.--The
 16 [department] agency shall have the following powers and duties:

17 (1) To adopt rules and regulations pursuant to this act:
 18 Provided, That the [department] agency shall have the power
 19 and authority to promulgate, adopt, publish and use
 20 guidelines for the implementation of this act [for a period <--
 21 of one year immediately following the effective date of this
 22 section pending adoption of final rules and regulations]. <--
 23 Guidelines AND RULES AND REGULATIONS proposed under the <--
 24 authority of this section shall be subject to review by the
 25 General Counsel and the Attorney General in the manner
 26 provided for the review of proposed rules and regulations
 27 pursuant to the act of October 15, 1980 (P.L.950, No.164),
 28 known as the Commonwealth Attorneys Act, [but shall not be
 29 subject to review pursuant to] and the act of June 25, 1982
 30 (P.L.633, No.181), known as the Regulatory Review Act.

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1 (2) To establish guidelines and application procedures
 2 for the establishment of contribution rates.
 3 (3) To receive, review and approve or disapprove all 911
 4 system county plans.
 5 (4) To forward a copy of each county plan application to
 6 the council and the commission for their review as required
 7 by this act.
 8 (5) To submit an annual report, not later than [January
 9 1] March 1 of each year, to the Governor and the General
 10 Assembly and include at least the following:
 11 (i) The extent to which 911 systems currently exist
 12 in Pennsylvania.
 13 (ii) Those counties which completed installation,
 14 and costs and expenses for installation.
 15 (iii) An anticipated schedule for installing a 911
 16 system on a county basis for that year.
 17 (6) To establish minimum training and certification
 18 standards for emergency dispatchers, call takers and
 19 supervisors.
 20 (7) To establish technical standards for all county
 21 plans.
 22 (8) To establish standards for performance review and
 23 quality assurance programs for 911 systems to ensure public
 24 safety and improve the performance of 911 systems.
 25 (9) To establish standards for accuracy of 911 database
 26 systems.
 27 (10) To establish a program of communication between the
 28 agency and county 911 coordinators for the purpose of sharing
 29 information between counties and to develop recommendations
 30 to improve 911 systems throughout this Commonwealth.

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1 (11) TO PRESCRIBE, IN COOPERATION WITH THE COUNCIL AND <--
 2 THE COMMISSION, SUCH APPLICATIONS AND FORMS AS MAY BE
 3 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ACT.
 4 (12) TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT,
 5 ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ACT.
 6 (b) Powers and duties of the council.--The council shall
 7 have the following powers and duties:
 8 [(1) To establish technical standards for all county
 9 plans.
 10 (2)] (1) To review all county plans, including the
 11 initial application forwarded by the [department] agency for
 12 conformity to the [technical] minimum standards.
 13 [(3)] (2) To review county plans to determine if
 14 equipment conforms to the technical standards.
 15 [(4)] (3) To recommend approval of plans or indicate
 16 deficiencies in plans to the [department] agency.
 17 (c) Powers and duties of the commission.--The commission
 18 shall have the following powers and duties:
 19 (1) Review the contribution rate requested by the county

20 based on the costs of the plan.

21 (2) Approve or modify the contribution rate requested by
22 the county and forward its decision to the [department]
23 agency.

24 Section 4. Counties.

25 (a) Powers and duties.--The board of county commissioners,
26 or, in a home rule county, the appropriate body according to the
27 home rule charter, shall have the following powers and duties in
28 relation to a 911 system:

29 (1) To designate a member of county government as a
30 county 911 coordinator who shall serve as a point of contact
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1 with the [department] agency and shall develop a county plan
2 for the implementation, operation and maintenance of a 911
3 system. Where technologically feasible, the county plan shall
4 be adequate to provide service for the entire county.

5 (2) To make arrangements with each telephone company
6 providing local exchange telephone service within the
7 county's jurisdiction to provide 911 service.

8 (3) To send a copy of the proposed county plan to the
9 appropriate telephone company upon submission of the plan to
10 the [department] agency.

11 (4) To cooperate with the [department] agency, the
12 council and the commission in preparation and submission of
13 the county plan and contribution rate.

14 (5) To execute all contracts, mutual aid agreements,
15 cross-service agreements and all other necessary documents
16 which may be required in the implementation of the county
17 plan.

18 (6) To annually request from each telephone service
19 provider, who shall provide a list of the provider's local
20 telephone exchanges within the county and the addresses of
21 that provider's central offices serving those exchanges.

22 (7) To notify the agency and all adjacent counties of
23 all local telephone exchanges which provide telephone service
24 to residents within the county, specifically noting any such
25 exchanges known to provide telephone service to residents of
26 more than one county. Such notice shall be provided at the
27 time the county plan is submitted to the agency, and when
28 local telephone service is newly initiated for local
29 telephone exchange within the county.

30 (b) Persons outside the county.--When an individual
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1 physically resides in an adjacent county, but receives local
2 exchange telephone service from a central office in a county
3 which provides 911 service, it shall be the responsibility of
4 the county with the 911 service to notify the appropriate public
5 agency of a request for emergency service from such an
6 individual.

7 (c) Cities of the second class, second class A and third
8 class.--Any city of the second class, second class A or third
9 class that has established a 911 system prior to the effective
10 date of this act may exercise the powers and duties of counties
11 under this act. Any city of the second class, second class A or
12 third class that has not established a 911 system prior to the
13 effective date of this act may exercise the powers and duties of
14 counties under this act only when the county has chosen not to
15 exercise those powers and duties. The powers and duties granted
16 to cities under this section shall be applicable and may be
17 exercised only within the boundaries of the city. No action by a
18 city pursuant to this section shall preempt the powers and
19 duties of a county to establish a 911 system outside the
20 boundaries of the city at any time. The [department] agency may
21 establish regulations governing the exercise of powers and
22 duties granted to cities of the second class, second class A and

23 third class by this section.

24 Section 5. County plan.

25 (a) Minimum standards.--Upon the agreement of the governing
26 authority of a county to establish a 911 system, a plan shall be
27 drafted meeting at least the [minimum technical] standards
28 promulgated by the agency [council]. The county may obtain
29 technical assistance from the [council] agency in formulating
30 its plan. Each 911 plan shall be designed to meet the individual
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1 circumstances of each community and the public agencies
2 participating in the 911 system.

3 (b) Completion.--Upon completion of the plan, it shall be
4 forwarded to the [department] agency, with a copy of the plan
5 being sent to those telephone companies affected by the plan. At
6 such time as the plan is submitted to the agency, the county
7 shall also provide each adjacent county with a list of local
8 telephone exchanges included in the plan, specifically noting
9 any such exchanges known to provide telephone service to
10 residents of more than one county.

11 (c) [Department] Agency review.--The [department shall
12 initially review the] agency shall review each county plan for
13 completeness. The [department] agency shall forward a copy of
14 the county plan and the proposed contribution rate to the
15 council and the commission for review as required by this
16 section. After the county plan has been reviewed by the council
17 and the commission, the [department] agency shall approve or
18 reject a county plan based on the recommendations of the council
19 and the commission. If the county plan is rejected, the
20 [department] agency shall return the county plan and explain the
21 deficiencies that caused the rejection.

22 (d) Council review.--The council shall have [60] 90 days to
23 review the plan and make suggested revisions of the plan. [The
24 council shall submit its findings in writing to the department.]
25 The [Pennsylvania Emergency Management Agency] agency may act as
26 agent for the council in the administration of the plan approval
27 process.

28 (e) Commission review.-- The commission shall review the
29 county plan only in relation to the contribution rate and may
30 modify only those contribution rates which it finds excessive to
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1 meet the costs stated in the plan. The rates shall be reviewed
2 and a decision forwarded to the [department] agency within [60] <--
3 90 days of the date of submission. If the commission fails to <--
4 review the contribution rate within [60] 90 days, the
5 contribution rate will be deemed approved by the commission.

6 (f) Present systems.--Those counties that presently have 911
7 systems may establish a contribution rate to cover nonrecurring
8 and operating costs of an existing 911 system by using the same
9 contribution rate approval mechanism as a new 911 system for the
10 purposes of this act. A county which does not have a 911 system
11 in operation on the effective date of this act but which awarded
12 a contract for such a system prior to the effective date of this
13 act shall be considered to have a present system.

14 (g) Regional systems.--Nothing in this act shall be
15 construed to prohibit the formation of multijurisdictional or
16 regional 911 systems, and any regional system established under
17 this act [may include the territory of a county] shall include
18 the territory of two or more counties.

19 (h) Contribution rate changes.--Once a plan and contribution
20 rate has been established, the contribution rate shall remain
21 fixed for a period of at least three years. Updating and
22 expanding the present system shall require an amended plan to be
23 filed with the [department] agency. The contribution rate shall
24 remain fixed for three years even if the present system is
25 updated and expanded. Requests for contribution rate changes

26 shall be submitted to the [department] agency to be forwarded to
 27 the commission for approval as provided by subsection (e).
 28 Contribution rate increases shall not be permitted more often
 29 than every three years and shall not take effect unless approved
 30 by the commission.

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1 (i) Assessment.--The moneys collected from the telephone
 2 contribution rate shall be utilized for payments of nonrecurring
 3 and recurring costs of a 911 system. The contribution rate may
 4 be imposed at any time subsequent to the execution of a contract
 5 with the provider of a 911 service at the discretion of the
 6 governing body and pursuant to approval of the county plan and
 7 contribution rate under the provisions of this section. The
 8 money collected from the contribution rate is a county fee
 9 collected by the telephone company; the money is not subject to
 10 taxes or charges levied on or by the telephone company. The
 11 money collected from the contribution rate shall not be
 12 considered revenue of the telephone company for any purpose.
 13 Section 8. Expenditures for nonrecurring costs, training,
 14 mobile communications equipment, maintenance and
 15 operation of 911 systems.

16 (a) Expenditures authorized.--During each county's fiscal
 17 year, the county may expend the amounts distributed to it from
 18 the contribution rate for the nonrecurring costs, training,
 19 costs for mobile communications equipment, maintenance and
 20 operation of a county 911 system.

21 (b) Items included in nonrecurring costs, training, mobile
 22 communications equipment, maintenance and operation costs.--
 23 Maintenance and operation costs may include telephone company
 24 charges, equipment costs or equipment lease charges, repairs,
 25 utilities, development and maintenance of a Master Street
 26 Address Guide, erection of street signs on State and local
 27 highways, data base maintenance costs, personnel training,
 28 salary and benefit costs which are directly related to the
 29 provision of 911 services and costs for mobile communications
 30 equipment, audit costs and appropriate carryover costs from

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1 previous years. Maintenance and operation costs shall not
 2 include any cost necessary to house the 911 system. No more than
 3 [60%] 70% of the contribution rate collected during each
 4 county's fiscal year may be utilized to fund personnel training,
 5 salary and benefit costs.

6 (c) Limitations on expenditures.--The [department] agency
 7 shall adopt procedures to assure that the total amount collected
 8 from the 911 contribution rate shall be expended only for the
 9 nonrecurring costs, costs for mobile communications equipment,
 10 maintenance and operation of a county 911 system. Nonrecurring
 11 costs shall be amortized over a minimum of three years.

12 (d) Triennial financial audit.--The [department shall
 13 require] agency shall require a triennial audit of each county's
 14 collection and disbursement of contribution rate funds and
 15 expenditures for the nonrecurring costs, training, costs for
 16 mobile communications equipment, maintenance and operation of
 17 911 systems. The triennial audit cost shall be paid by the
 18 respective county from contribution rate revenues. The audit
 19 shall be consistent with guidelines established by the agency.

20 (e) Public education.--Each county may use moneys received
 21 from the imposition of the contribution rate to educate the
 22 public on the 911 system. Education may include, but is not
 23 limited to, confirming with all residents of the county their
 24 actual street addresses.

25 Section 9. Telephone records.

26 * * *

27 (c) Immunity.--No telephone company, [or agent or] wireless
 28 communications company or vendor or agent, employee or director

29 of a telephone company, wireless communications company or
30 vendor, shall be liable to any person who uses the 911 emergency
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1 service established under this act:

2 (1) for release to a public safety answering point of
3 information specified in this section that is not already
4 part of the public records, including nonpublished telephone
5 numbers; or

6 (2) for interruptions, omissions, defects, errors,
7 mistakes or delays in transmission occurring in the course of
8 rendering 911 emergency service under this act, unless such
9 interruptions, omissions, defects, errors, mistakes or delays
10 are caused by the willful or wanton misconduct of the
11 telephone company, [its agents or] wireless communications
12 company or vendor, their agents, employees or directors:
13 Provided, however, That nothing herein shall preclude the
14 application of any commission tariff or regulation pertaining
15 to allowances for telephone service interruptions.

16 [Section 11. Rules and regulations. <--

17 The ~~department~~ agency, in cooperation with the council and <--
18 the commission, may prescribe such application forms and
19 promulgate such guidelines, rules and regulations as may be
20 necessary to carry out the provisions of this act.] <--

21 Section 3. The act is amended by adding a section to read:

22 Section 11.1. Immunity.

23 All 911 systems run by county and local governments shall be
24 local agencies who shall enjoy local governmental immunity as
25 provided under 42 Pa.C.S. (~~relating to judiciary and judicial~~ <--
26 procedure). CH. 85 SUBCH. C (RELATING TO ACTIONS AGAINST LOCAL <--
27 PARTIES).

28 Section 4. This act shall take effect in 60 days.