

No. 1998-17

AN ACT

HB 911

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

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

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

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"911 emergency communication system" or "911 system." A system which permits a person dialing 911 by telephone to be connected to a public safety answering point, via normal telephone facilities, for the reporting of police, fire, medical or other emergency situations.

"Agency." The Pennsylvania Emergency Management Agency.

"Commission." The Pennsylvania Public Utility Commission.

"Contribution rate." A fee assessed against a telephone subscriber for the nonrecurring costs, maintenance and operating costs of a 911 system. Counties of the first through second class A may impose a monthly contribution rate in an amount not to exceed \$1 per line on each local exchange access line. Counties of the third through fifth class may impose monthly contribution rates in an amount not to exceed \$1.25 per line on each local exchange access line. Counties of the sixth through eighth class may impose a monthly contribution rate in an amount not to exceed \$1.50 per line on each local exchange access line. The contribution rate may be used by counties for the expenses of implementing, expanding or upgrading a 911 system. Expenses eligible for reimbursement through the contribution rate shall include telephone terminal equipment, trunk line service installation, network changes, building of initial data base and any other nonrecurring costs to establish a 911 system. The contribution rate may also be used to fund recurring costs pursuant to section 8(b). Expenses not eligible for reimbursement through the contribution rate shall include purchase of real

estate, cosmetic remodeling, central office upgrades, hiring **[and training]** of dispatchers, **[mobile communications equipment,]** ambulances, fire engines or other emergency vehicles, utilities, taxes and other expenses as determined by the **[Department of Community Affairs] Pennsylvania Emergency Management Agency.**

“Council.” The Pennsylvania Emergency Management Council.

“County.” The term shall include a city of the first class coterminous with a county.

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

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

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

“Person.” The term includes a corporation, a partnership, an association, the Federal Government, the State government, a political subdivision, a municipal or other local authority, as well as a natural person.

“Public agency.” The Commonwealth or a political subdivision, public authority, municipal authority or any organization located in whole or in part within this Commonwealth which provides or has the authority to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

“Public safety answering point” or “PSAP.” The first point at which calls for emergency assistance from individuals are answered, operated 24 hours a day.

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

“Vendor.” A person who supplies 911 system services or equipment.

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

(a) Powers and duties of **[department] agency.**—The **[department] agency** shall have the following powers and duties:

(1) To adopt rules and regulations pursuant to this act: Provided, That the **[department] agency** shall have the power and authority to promulgate, adopt, publish and use guidelines for the implementation of this act **[for a period of one year immediately following the effective date of this section pending adoption of final rules and regulations].** Guidelines *and rules and regulations* proposed under the authority of this

section shall be subject to review by the General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, **[but shall not be subject to review pursuant to]** and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(2) To establish guidelines and application procedures for the establishment of contribution rates.

(3) To receive, review and approve or disapprove all 911 system county plans.

(4) To forward a copy of each county plan application to the council and the commission for their review as required by this act.

(5) To submit an annual report, not later than **[January 1] March 1** of each year, to the Governor and the General Assembly and include at least the following:

(i) The extent to which 911 systems currently exist in Pennsylvania.

(ii) Those counties which completed installation, and costs and expenses for installation.

(iii) An anticipated schedule for installing a 911 system on a county basis for that year.

(6) To establish minimum training and certification standards for emergency dispatchers, call takers and supervisors.

(7) To establish technical standards for all county plans.

(8) To establish standards for performance review and quality assurance programs for 911 systems to ensure public safety and improve the performance of 911 systems.

(9) To establish standards for accuracy of 911 database systems.

(10) To establish a program of communication between the agency and county 911 coordinators for the purpose of sharing information between counties and to develop recommendations to improve 911 systems throughout this Commonwealth.

(11) To prescribe, in cooperation with the council and the commission, such applications and forms as may be necessary to carry out the provisions of this act.

(12) To take all actions necessary to implement, administer and enforce the provisions of this act.

(b) Powers and duties of the council.—The council shall have the following powers and duties:

[(1) To establish technical standards for all county plans.

(2) (1) To review all county plans, including the initial application forwarded by the [department] agency for conformity to the [technical] minimum standards.

[(3)] (2) To review county plans to determine if equipment conforms to the technical standards.

[(4)] (3) To recommend approval of plans or indicate deficiencies in plans to the [department] *agency*.

(c) Powers and duties of the commission.—The commission shall have the following powers and duties:

(1) Review the contribution rate requested by the county based on the costs of the plan.

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

Section 4. Counties.

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

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

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

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

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

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

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

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

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

(c) Cities of the second class, second class A and third class.—Any city of the second class, second class A or third class that has established a 911 system prior to the effective date of this act may exercise the powers and duties of counties under this act. Any city of the second class, second class A or third class that has not established a 911 system prior to the effective date of this act may exercise the powers and duties of counties under this act only when the county has chosen not to exercise those powers and duties. The powers and duties granted to cities under this section shall be applicable and may be exercised only within the boundaries of the city. No action by a city pursuant to this section shall preempt the powers and duties of a county to establish a 911 system outside the boundaries of the city at any time. The [department] *agency* may establish regulations governing the exercise of powers and duties granted to cities of the second class, second class A and third class by this section.

Section 5. County plan.

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

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

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

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

(e) Commission review.—The commission shall review the county plan only in relation to the contribution rate and may modify only those

contribution rates which it finds excessive to meet the costs stated in the plan. The rates shall be reviewed and a decision forwarded to the **[department] agency** within **[60] 90** days of the date of submission. If the commission fails to review the contribution rate within **[60] 90** days, the contribution rate will be deemed approved by the commission.

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

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

(h) Contribution rate changes.—Once a plan and contribution rate has been established, the contribution rate shall remain fixed for a period of at least three years. Updating and expanding the present system shall require an amended plan to be filed with the **[department] agency**. The contribution rate shall remain fixed for three years even if the present system is updated and expanded. Requests for contribution rate changes shall be submitted to the **[department] agency** to be forwarded to the commission for approval as provided by subsection (e). Contribution rate increases shall not be permitted more often than every three years and shall not take effect unless approved by the commission.

(i) Assessment.—The moneys collected from the telephone contribution rate shall be utilized for payments of nonrecurring and recurring costs of a 911 system. The contribution rate may be imposed at any time subsequent to the execution of a contract with the provider of a 911 service at the discretion of the governing body and pursuant to approval of the county plan and contribution rate under the provisions of this section. The money collected from the contribution rate is a county fee collected by the telephone company; the money is not subject to taxes or charges levied on or by the telephone company. The money collected from the contribution rate shall not be considered revenue of the telephone company for any purpose.

Section 8. Expenditures for nonrecurring costs, *training, mobile communications equipment*, maintenance and operation of 911 systems.

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

(b) Items included in nonrecurring costs, *training, mobile communications equipment*, maintenance and operation costs.—Maintenance

and operation costs may include telephone company charges, equipment costs or equipment lease charges, repairs, utilities, *development and maintenance of a master street address guide, erection of street signs on State and local highways*, data base maintenance costs, personnel *training*, salary and benefit costs which are directly related to the provision of 911 services *and costs for mobile communications equipment*, audit costs and appropriate carryover costs from previous years. Maintenance and operation costs shall not include any cost necessary to house the 911 system. No more than [60%] 70% of the contribution rate collected during each county's fiscal year may be utilized to fund personnel *training*, salary and benefit costs.

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

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

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

Section 9. Telephone records.

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(c) Immunity.—No telephone company, [or agent or] *wireless communications company or vendor or agent*, employee or director of a telephone company, *wireless communications company or vendor* shall be liable to any person who uses the 911 emergency service established under this act:

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

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

[Section 11. Rules and regulations.

The department, in cooperation with the council and the commission, may prescribe such application forms and promulgate such guidelines, rules and regulations as may be necessary to carry out the provisions of this act.]

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

Section 11.1. Immunity.

All 911 systems run by county and local governments shall be local agencies who shall enjoy local governmental immunity as provided under 42 Pa.C.S. Ch. 85 Subch. C (relating to actions against local parties).

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

APPROVED—The 12th day of February, A.D. 1998.

THOMAS J. RIDGE