



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 911

PRINTERS NO. 1331

PRIME SPONSOR: Barrar

COST / (SAVINGS)

FUND	FY 2014/15	FY 2015/16
911 Fund; General Fund	See Fiscal Impact	See Fiscal Impact

SUMMARY: House Bill 911, Printer's Number 1331, amends Title 35 Chapter 53, to update and enhance the fees and mechanisms for providing emergency telephone service.

ANALYSIS: This bill amends Title 35 Chapter 53, relating to emergency telephone service by updating definitions, telecommunications management procedures and operating and accountability mechanisms. It also establishes a new uniform 911 surcharge fee, a 911 Fund for the collection of surcharges and procedures related to the distribution of the fee revenues. Several sections are added or revised some of which are as follows:

Section 5303 - Telecommunications Management

Under this section, the powers and duties of the Pennsylvania Emergency Management Agency (PEMA) are outlined, such as publishing guidelines for the collection and distribution of the 911 surcharge and establishing formulas and methods for the distribution of surcharge revenues. PEMA must also establish a Statewide 911 plan and uniform standards for technology, administration and operation of 911 systems. In order to accomplish these objectives, the agency may perform audits of or request reports from any entity remitting the surcharge or receiving any disbursement from the fund. It may take other actions necessary to implement or enforce Chapter 53, which also includes subpoena powers related to witnesses and documentation.

The bill establishes a 911 Board within the agency to advise on regulations, guidelines and other matters related to emergency telecommunication management and public safety answering points (PSAPs), also known as 911 systems. The board shall be comprised of the PEMA director; State 911 Coordinator; four County Commissioners or home-rule equivalent; four county or regional 911 coordinators; four representatives from the provider community, representing one from local exchange carrier, one VoIP and two wireless carriers; and a Pennsylvania State Police representative serving as a non-voting member. Members serve without compensation but are reimbursed for necessary travel and other expenses, while meetings are to be held at least quarterly and at any special session called by the Chair.

Section 5304 - Counties

Powers and duties are outlined with additional language requiring counties, to:

- ensure the provision of a 911 system for their respective jurisdictions;
- develop and maintain a 911 plan to be reviewed and approved by PEMA;
- comply with PEMA guidelines, standards and reporting requirements; and
- designate a 911 coordinator 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 may 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 Next Generation 911 implementation. The board shall also 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 surcharge proceeds required to be remitted under Chapter 53; any money appropriated by the General Assembly; public and private money from any source; and any interest from the fund.

The money from the fund shall only be used for 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.

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:

- Not less than 75 percent of the amount in the fund shall be disbursed to a 911 system through a mathematical formula established by PEMA in consultation with the board.
- Twelve percent of the amount in the fund shall be distributed at PEMA's discretion for initiatives that will improve 911 systems in Pennsylvania.
- Up to six percent shall be used 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.

- Five percent shall be disbursed equally to PSAPs (i.e. 911 systems). Any consolidations after the effective date of the act shall not reduce a current allocation disbursement.
- Up to two percent may be retained by PEMA for administrative purposes. Any excess funds shall be added to the 75 percent formula distribution driven to PSAPs.

The formula shall be reviewed every two years by PEMA and may be adjusted annually with several factors being considered, such as common base level costs, local population, call volumes and other factors. The total annual disbursement to any one 911 system shall not exceed the actual cost, which may include amortization or depreciation of allowable capital costs as determined by using generally accepted accounting principles and approved plan allocations to capital and operating reserves.

The bill also states that until PEMA establishes and implements the distribution formula for 911 systems, an interim disbursement formula shall be utilized by considering the respective 911 system's average local exchange telephone carrier's and VoIP provider's surcharge collections for five years preceding the effective date of the act.

The fund shall be audited in a manner consistent with Commonwealth administered restricted receipts accounts. PEMA shall require biennial performance audits of each PSAP's use of disbursements it has received from the fund, which shall include amounts placed in capital/operating reserves consistent with published guidelines established by the agency. The cost of each audit shall be paid from the fund.

Under Section 5313, PEMA is required to submit a report to the General Assembly within two years from the effective date of the act, including recommendations on the impact of current and anticipated technological and market changes regarding 911 service, as well as the structure and adequacy of the surcharge as well as the fund.

Section 5306.2 - Uniform 911 Surcharge

The legislation changes the current funding structure for the 911 program by imposing a uniform surcharge of \$1.65 on each 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 one percent of the gross receipts for administrative costs.

The collection of the surcharge by each provider 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

The surcharge will continue to be applied to a subscriber's post-paid monthly bill and be remitted to the State Treasurer to be deposited into the fund. The section addresses surcharges for "multi-line" telephone systems and digital transmission links, including primary interface service or a digital Signal - 1 (DS-1) level service or equivalent, that provides a subscriber access to a PSAP to a dedicated 911 system when the digits 9-1-1 are dialed.

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

The surcharge will continue to be 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 one and a half percent of the surcharge for administrative purposes. The department shall also 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 two percent of remitted surcharges for administration costs directly related to the remittance of the surcharges.

The bill includes additional sections that address penalty provisions for the use or disclosure of database information, as well as a section addressing immunity for those working with PSAPs

(including 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. It also includes language 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.

Section 5314 inserts new language requiring PEMA, in consultation of with the Pennsylvania State Police and 911 board, to conduct a comprehensive inventory of a PSAP's assets, capabilities and advancement to Next Generation 911 capability and needs. Counties shall comply with these comprehensive inventory requirements within 45 days or risk suspension or forfeiture of fund disbursements.

PEMA shall complete a report detailing its findings and recommendations to the General Assembly by October 31, 2015 and be responsible for maintaining and updating the inventory biannually.

Section 5398 of Title 35 is amended to extend the program's sunset date from June 30, 2015 to June 30, 2019.

The bill establishes the board and the PSAP inventory which would take effect immediately upon enactment, Section 5311.2 addressing database management shall take effect in 180 days, and the remaining provisions take effect July 1, 2015 or immediately, whichever is later.

FISCAL IMPACT: The purpose of the legislation, in addition to updating telecommunications procedures and operating and accountability requirements, is to establish a new funding mechanism for public service answering points (PSAPs) or 911 systems across the Commonwealth. This is accomplished by implementing a new uniform 911 surcharge fee, a 911 Fund for collecting surcharges, and updated procedures related to distributing fee revenues.

For example, under the current program all wireless telephone devices have a \$1.00 surcharge monthly 911 fee, and prepaid wireless cards/devices are surcharged \$1.00 at the point of retail sale. These 911 surcharge fees are currently remitted to the state Wireless E-911 Emergency Services Fund for disbursement by PEMA to the county and regional PSAPs. Landline telephones are surcharged \$1.00-\$1.50 per phone, depending on the class of county and retained within a restricted account by the county, while there is also a \$1.00 fee on Voice over Internet Protocol (VoIP) that is collected by VoIP providers.

Per PEMA's most recent 911 Program Annual Report for 2013, total county expenditures were \$284 million while total 911 surcharge revenues from all required sources generated approximately \$190 million. It is projected that 2014 surcharge revenues will remain around \$190 million with county expenditures increasing to approximately \$292 million. PEMA's 911 annual reports also highlight that overall revenue amounts have remained relatively consistent

for years – with wireless funds collected generally increasing and wireline/VoIP funds collected continuing to decrease – but total PSAP expenditures continue to increase annually and outpace available revenues.

The increase in PSAP expenditures is also addressed in the 2012 Legislative Budget and Finance Committee (LBFC) report on the 911 program, which states that “PSAP costs have been increasing, in part, because many PSAPs now do much more than answer emergency 911 calls.”

The bill’s intent is to address this fiscal imbalance by establishing a new uniform monthly 911 surcharge fee set at \$1.65 per required device. Per agency data from 2013, this is projected to generate \$314 million in total revenues available and would result in an additional \$124 million available for 911 service programs when compared to the current funding model.

(It should also be noted that the 2012 LBFC report on the 911 program highlights that the maximum allowable surcharge assessed by counties for wireline phones has not increased since 1990 when first enacted. The report states that “*if simply adjusted for inflation, the maximum allowable rates would range from \$1.72 for large counties to \$2.58 for sixth through eighth class counties.*”)

The different sources and surcharges of 911 funding currently collected will now be consolidated into one uniform monthly 911 surcharge. As a result, the separate accounts identified under Chapter 53, such as the Wireless E-911 Emergency Services Fund, VoIP 911 Emergency Services Fund and county 911 restricted accounts, are no longer necessary. The collective revenue from the uniform 911 surcharge will be deposited into a new nonlapsing restricted account in the State Treasury known as the 911 Fund. The proposed legislation also changes the funding formula in regard to how available funding will be distributed from the 911 Fund as outlined above.

Another purported objective of the legislation is to generate additional savings for the statewide 911 program by way of changes to Chapter 53 related to telecommunications management procedures and operating mechanisms. For example, while it cannot be immediately quantified, potential PSAP cost savings are anticipated due to new PEMA requirements establishing uniform standards for technology and systems administration. Additional PSAP savings are expected through other changes in the bill including regionalization and consolidation initiatives, biennial performance audits of PSAPs, and the publishing of standards and eligible costs for equipment, technology and personnel annually. The 2012 LBFC report findings support many of these changes by stating that “PEMA has little ability or authority to control county expenditures of either wireline or wireless funds, provided the funds are spent for eligible items” in order to address growing operating expenditures.

Other agency duties and requirements established under the legislation, such as the 911 board within PEMA, completion of a comprehensive inventory of PSAP assets and submission of reports to the General Assembly, are all expected to be covered under existing General Fund

program operations. However, in those instances when costs exceed General Fund program support, the agency is authorized to utilize up to two percent of available revenue from the 911 Fund, which could be \$6 million for additional program needs and operations.

PREPARED BY: Jeffrey Clukey
House Appropriations Committee (R)

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Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.