WEST VIRGINIA CODE CHAPTER 24 ARTICLE 6

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§24-6-1. Legislative findings.

The Legislature hereby finds and declares that it is in the public interest to shorten the time required for a citizen to request and receive emergency aid. There are hundreds of different emergency phone numbers throughout the state. Present telephone exchange boundaries and central office service areas do not necessarily correspond to public safety and political boundaries. Provision of a single, primary emergency number through which emergency services can be quickly and efficiently obtained will provide a significant contribution to law enforcement and other public service efforts. This simplified means of procuring emergency services will result in the saving of life, a reduction in the destruction of property, quicker apprehension of criminals, and ultimately the saving of money. The Legislature further finds and declares that the establishment of a uniform, statewide emergency number is a matter of statewide concern and interest to all inhabitants and citizens of this state. It is the purpose of this article to establish a primary emergency telephone number for use in this state and to encourage units of local government and combinations of units of local government to develop and improve emergency communication procedures and facilities in a manner that will allow a quick response to any person calling the primary emergency telephone number seeking police, fire, medical, rescue and other emergency services.

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§24-6-1a. Municipal emergency telephone systems.

Effective April 1, one thousand nine hundred eighty-eight, and thereafter, the provisions of this article shall also be applicable to municipalities of this state. Where the provisions of this article refer to the word "county" or "counties," henceforth such references shall be considered to include the word "municipality" or "municipalities" with respect to the subject matter therein, except and unless such reference to "municipality" or "municipalities" would not have a logical and clear meaning within such context.

It is the intent of this section to make this article equally applicable to counties and municipalities alike and to allow county commissions and the officials of municipalities to enter into such agreements between them or the telephone company as may be necessary to accomplish the purposes provided for by this article: Provided, That if any county has a system in place, municipalities may not adopt a different system without county approval.

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§24-6-2. Definitions.

As used in this article, unless the context clearly requires a different meaning:

“Automatic location identification” or “ALI” means a telecommunications network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireless enhanced 911 call.

“Automatic number identification” or “ANI” means a telecommunications network capability that enables the automatic display of the telephone number used to place a wireless enhanced 911 call.

“Commercial mobile radio service provider” or “CMRS provider” means cellular licensees, broadband personal communications services (PCS) licensees and specialized mobile radio (SMR) providers, as those terms are defined by the Federal Communications Commission, which offer on a post-paid or prepaid basis or via a combination of those two methods, real-time, two-way switched voice service that is interconnected with the public switched network and includes resellers of any commercial mobile radio service.

“County answering point” or “public safety answering point” or “PSAP” means a facility to which 911 calls are initially routed for response and where county personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider or transferring the call to the appropriate provider.

“Emergency services organization” means the organization established under article five, chapter fifteen of this code.

“Emergency service provider” means any emergency services organization or public safety unit.

“Emergency telecommunicator” means a professional telecommunicator meeting the training requirements set forth in §24-6-5 and is a first responder tasked with the gathering of information related to medical emergencies, the provision of assistance and instructions by voice, prior to the arrival of emergency medical services (EMS), and the dispatching and support of EMS resources responding to an emergency call.

“Emergency telephone system” means a telephone system which through normal telephone service facilities automatically connects a person dialing the primary emergency telephone number to an established public agency answering point, but does not include an enhanced emergency telephone system.

“Emergency services IP network” or “ESInet” means a shared public safety agency-managed Internet-Protocol (IP) network that:

(A) Is used for emergency services communications;

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(B) Provides an IP transport infrastructure that is capable of carrying voice and data and that supports NG911 service core functions such as routing and location validation of emergency service requests; and

(C) Is engineered, managed, and intended to support emergency public safety communications and 911 service.

“Enhanced emergency telephone system” or “enhanced 911 service” means a telephone system which automatically connects the person dialing 911 to the appropriate county answering point with ALI and ANI data.

“Next Generation 911” or “NG911” means a service that:

(A) Consists of coordinated intrastate 911 IP networks serving residents of West Virginia with the routing of emergency service requests, by voice or data, across public safety ESInets;

(B) Automatically directs 911 emergency telephone calls and other emergency service requests in data formats to the appropriate PSAP by routing using geographical information system data;

(C) Provides for ALI and ANI features; and

(D) Interconnects with enhanced 911 service.

“Prepaid wireless calling service” means prepaid wireless calling service as defined in §11-15-2 of this code.

“Public agency” means the state and any municipality, county, public district or public authority which provides or has authority to provide firefighting, police, ambulance, medical, rescue or other emergency services.

“Public safety unit” means a functional division of a public agency which provides firefighting, police, medical, rescue or other emergency services.

“Telephone company” means any public utility and any CMRS provider which is engaged in the provision of telephone service whether primarily by means of wire or wireless facilities.

“Comprehensive plan” means a plan pertaining to the installing, modifying or replacing of telephone switching equipment; a telephone utility’s response in a timely manner to requests for emergency telephone service by a public agency; a telephone utility’s responsibility to report to the Public Service Commission; charges and tariffs for the services and facilities provided by a telephone utility; and access to an emergency telephone system by emergency service organizations.

“Technical and operational standards” means those standards of telephone equipment and

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processes necessary for the implementation of the comprehensive plan as defined in subdivision (11) of this subsection.

"VoIP service" means interconnected voice over Internet protocol service as defined in the code of Federal Regulations, Title 47, Part 9, section 9.3, as amended.

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§24-6-3. Adoption of emergency telephone system plan.

(a) The Public Service Commission shall develop, adopt, and periodically review a comprehensive plan establishing the technical and operational standards to be followed in establishing and maintaining emergency telephone systems and enhanced emergency telephone systems.

(b) In developing the comprehensive plan, the Public Service Commission shall consult with telephone companies, and with the various public agencies and public safety units, including, but not limited to, emergency services organizations.

(c) The Public Service Commission shall annually review with each operating telephone company their construction and switching replacements projections. During this review, the Public Service Commission shall ensure that all new switching facilities will accommodate the emergency telephone system.

(d) The State Auditor, in cooperation with the Public Service Commission, shall develop and adopt a comprehensive plan for periodic audits of the expenditure of emergency 911 telephone system fees and wireless enhanced 911 fees. The results of the audits shall be submitted to the Joint Committee on Government and Finance, no less than annually.

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§24-6-4. Creation of emergency telephone systems.

(a) Upon the adoption by the Public Service Commission of a comprehensive plan, the public agency may establish, consistent with the comprehensive plan, an emergency telephone system within its jurisdiction. Nothing contained in this section shall be construed to prohibit or discourage in any way the establishment of multijurisdiction or regional systems, and any emergency telephone system established pursuant to this article may include the territory of more than one public agency, or may include only a portion of the territory of a public agency. To the extent feasible, emergency telephone systems shall be centralized.

(b) Every emergency telephone system shall provide access to emergency services organizations, police, fire fighting and emergency medical and ambulance services and may provide access to other emergency services. The system may also provide access to private ambulance services. The emergency telephone system shall provide the necessary mechanical equipment at the established public agency answering point to allow deaf persons access to the system. In those areas in which a public safety unit of the state provides emergency services, the system shall provide access to the public safety unit.

(c) The primary emergency telephone number to the extent possible shall be uniform throughout the state.

(d) Insofar as it is consistent with applicable federal law and federal communications commission regulations and orders, a telephone company in the normal course of replacing or making major modifications to its switching equipment shall include the capability of providing for the emergency telephone system and shall bear all costs related to including that capability. All charges for other services and facilities provided by the telephone company, including the provision of distribution facilities and station equipment, shall be paid for by the public agency or public safety unit in accordance with the applicable tariff rates then in effect for those services and facilities. Other costs pursuant to the emergency telephone system shall be allocated as determined by the applicable comprehensive plan of the Public Service Commission.

(e) All coin-operated telephones within the state shall be of a design that will permit a caller to initiate, without first having to insert a coin (dial tone first or post-pay systems), local calls to the long distance and directory assistance operators, calls to the emergency telephone number answering point, if one has been established in his or her local calling area, and to other numbers for services as the telephone company may from time to time make available to the public.

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§24-6-5. Enhanced emergency telephone system requirements.

NOTE: West Virginia Code §24-6-5 was amended by two bills passed during the 2020 Regular Session of the Legislature. When two acts of the Legislature amend the same section of the Code without express recognition in the bill of the action of the other bill, the Legislative Manager makes no determination as to the appropriate, legal effect of the two acts. Therefore, both versions of this section are set out below.

House Bill 4123 (passed last on March 7, 2020) amended West Virginia Code §24-6-5 to read as follows:

(a) An enhanced emergency telephone system, at a minimum, shall provide that:

(1) All the territory in the county, including every municipal corporation in the county, which is served by telephone company central office equipment that will permit such a system to be established shall be included in the system: *Provided*, That if a portion of the county or a portion of a municipal corporation within the county is already being served by an enhanced emergency telephone system, that portion of the county or municipality may be excluded from the county enhanced emergency telephone system;

(2) Every emergency service provider that provides emergency service within the territory of a county participate in the system;

(3) Each county answering point be operated constantly by an emergency telecommunicator;

(4) Each emergency service provider participating in the system maintain a telephone number in addition to the one provided in the system; and

(5) If the county answering point personnel reasonably determine that a call is not an emergency, the personnel provide the caller with the number of the appropriate emergency service provider.

(b) To the extent possible, enhanced emergency telephone systems shall be centralized.

(c) In developing an enhanced emergency telephone system, a county commission or the West Virginia State Police shall seek the advice of both the telephone companies providing local exchange service within the county and the local emergency providers.

(d) As a condition of employment, a person employed as the director of an emergency dispatch center who dispatches emergency calls or supervises the dispatching of emergency call takers is subject to an investigation of his or her character and background. This investigation shall include, at a minimum, a criminal background check conducted by the State Police at its expense. A felony conviction shall preclude a person from holding any of these positions.

(e) As a condition of continued employment, persons employed to dispatch emergency calls in county emergency dispatch centers shall successfully complete:

(1) A 40-hour nationally recognized training course for dispatchers within one year of the

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date of their employment;

(2) A nationally recognized training course in emergency cardiovascular care for telephonic cardiopulmonary resuscitation selected by the medical director of an emergency medical dispatch center. This training course shall incorporate protocols for out-of-hospital cardiac arrest and compression-only cardiopulmonary resuscitation and continuing education, as appropriate. The training requirements of this subdivision are effective not later than July 1, 2020. Persons employed subsequent to July 1, 2019, shall complete the training within one year of the date of employment; and

(3) An additional nationally recognized emergency medical dispatch course or an emergency medical dispatch course approved by the Office of Emergency Medical Services within one year of the date of employment.

(f) The director of each county emergency dispatch center shall develop policies and procedures to establish a protocol for dispatching emergency medical calls implementing a nationally recognized emergency medical dispatch program, or an emergency medical dispatch program approved by the Office of Emergency Medical Services. If a county emergency dispatch center uses a one-button transfer system, it may continue to use this system if the county emergency dispatch center establishes policies and procedures requiring the agency to whom the call is transferred to remain on the call until a first responder arrives.

(g) Each county or municipality shall appoint for each answering point an enhanced emergency telephone system advisory board consisting of at least six members to monitor the operation of the system. The board shall be appointed by the county or municipality and shall include at least one member from affected:

(1) Fire service providers;

(2) Law-enforcement providers;

(3) Emergency medical providers;

(4) Emergency services providers participating in the system; and

(5) Counties or municipalities.

(6) The director of the county or municipal enhanced telephone system shall serve as an ex officio member of the advisory board.

(h) All appointments to the advisory board shall be for terms of three years, except that an appointment to fill a vacancy shall be for the unexpired term. All members shall serve without compensation. The board shall adopt any policies, rules, and regulations necessary for its own guidance. The board shall meet monthly or quarterly. The board may make recommendations to the county or municipality concerning the operation of the system.

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(i) The establishment of multijurisdictional or regional systems, or multijurisdictional or regional agreements for the establishment of enhanced emergency telephone systems, and any system established pursuant to this article may include the territory of more than one public agency, or may include only a portion of the territory of a public agency.

(j) All public safety answering points that answer calls for emergency medical conditions shall, in the appropriate circumstances, provide telephonic assistance in administering cardiopulmonary resuscitation directly or transfer calls to a call center to provide assistance in administering telephonic cardiopulmonary resuscitation.

(k) The director of the county or municipal enhanced telephone system shall have the authority to enter into mobile-phone contracts with service providers for the purpose of obtaining a mobile-phone emergency line for the county or municipality. The director must solicit bids for mobile-phone contracts from mobile-phone service providers in this state. The director may award the contract to the lowest responsible bidder, or designate in writing, why any other bidder other than the lowest responsible bidder was awarded a contract. The director may obtain as many lines as reasonably needed for emergencies where landlines are unavailable to serve the county or municipality. The director and phone service provider should collaborate to obtain the following:

(1) The emergency mobile-phone number may be the county prefix and end in 0911, as feasible for the phone service provider;

(2) The emergency mobile-phone service provider should permit roll-over service to allow multiple callers to dial into the amount of lines purchased; and

(3) The emergency mobile-phone service provider should provide the lowest possible cost.

Nothing in this subsection shall be construed to prohibit or discourage in any way the establishment of multijurisdictional or regional systems, or multijurisdictional or regional agreements for the establishment of emergency mobile-telephone systems. This section shall be effective July 1, 2020.

(l) Emergency mobile-phone contracts entered into pursuant to subsection (j) of this section may be paid from funds received by the Public Service Commission relating to 911 fees remitted to the county or by other county funds. A report of the funds expended for subsection (j) of this section shall be presented to the interim Joint Committee on Government Organization no later than November 30, 2020, to ensure the fiscal responsibility and efficacy of this section.

Senate Bill 649 (passed first on March 2, 2020) amended West Virginia Code §24-6-5 to read as follows:

(a) An enhanced emergency telephone system, at a minimum, shall provide that:

(1) All the territory in the county, including every municipal corporation in the county, which is served by telephone company central office equipment that will permit such a system to

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be established shall be included in the system: *Provided,* That if a portion of the county or a portion of a municipal corporation within the county is already being served by an enhanced emergency telephone system, that portion of the county or municipality may be excluded from the county enhanced emergency telephone system;

(2) Every emergency service provider that provides emergency service within the territory of a county participate in the system;

(3) Each county answering point be operated constantly;

(4) Each emergency service provider participating in the system maintain a telephone number in addition to the one provided in the system; and

(5) If the county answering point personnel reasonably determine that a call is not an emergency, the personnel provide the caller with the number of the appropriate emergency service provider.

(b) To the extent possible, enhanced emergency telephone systems shall be centralized.

(c) In developing an enhanced emergency telephone system, a county commission or the West Virginia State Police shall seek the advice of both the telephone companies providing local exchange service within the county and the local emergency providers.

(d) As a condition of employment, a person employed as the director of an emergency dispatch center who dispatches emergency calls or supervises the dispatching of emergency call takers is subject to an investigation of their character and background. This investigation shall include, at a minimum, a criminal background check conducted by the State Police at its expense. A felony conviction shall preclude a person from holding any of these positions.

(e) As a condition of continued employment, persons employed to dispatch emergency calls in county emergency dispatch centers shall successfully complete:

(1) A 40-hour nationally recognized training course for dispatchers within one year of the date of their employment; and

(2) An additional nationally recognized emergency medical dispatch course or an emergency medical dispatch course approved by the Office of Emergency Medical Services not later than July 1, 2013, or if employed subsequent to July 1, 2013, within one year of the date of employment.

(f) On or before July 1, 2013, the director of each county emergency dispatch center shall develop policies and procedures to establish a protocol for dispatching emergency medical calls implementing a nationally recognized emergency medical dispatch program or an emergency medical dispatch program approved by the Office of Emergency Medical Services: *Provided,* That a county's emergency dispatch center, which utilizes a one-button

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transfer system, may continue to use this system if the county emergency dispatch center establishes policies and procedures which require the agency to whom the call is transferred to remain on the call until a first responder arrives.

(g) Each county or municipality shall appoint for each answering point an enhanced emergency telephone system advisory board consisting of at least six members to monitor the operation of the system. The board shall be appointed by the county or municipality and shall include at least one member from affected:

(1) Fire service providers;

(2) Law-enforcement providers;

(3) Emergency medical providers;

(4) Emergency services providers participating in the system; and

(5) Counties or municipalities.

The director of the county or municipal enhanced telephone system shall serve as an ex officio member of the advisory board.

(h) The initial advisory board shall serve staggered terms of one, two, and three years. The initial terms of these appointees shall commence on July 1, 1994. All future appointments shall be for terms of three years, except that an appointment to fill a vacancy shall be for the unexpired term. All members shall serve without compensation. The board shall adopt such policies, rules, and regulations as are necessary for its own guidance. The board shall meet monthly or quarterly. The board may make recommendations to the county or municipality concerning the operation of the system.

(i) Nothing herein contained shall be construed to prohibit or discourage in any way the establishment of multijurisdictional or regional systems, or multijurisdictional or regional agreements for the establishment of enhanced emergency telephone systems, and any system established pursuant to this article may include the territory of more than one public agency, or may include only a portion of the territory of a public agency.

(j) The director of the county or municipal enhanced telephone system shall have the authority to enter into mobile-phone contracts with service providers for the purpose of obtaining a mobile-phone emergency line for the county or municipality. The director must solicit bids for mobile-phone contracts from mobile-phone service providers in this state. The director may award the contract to the lowest responsible bidder, or designate in writing, why any other bidder other than the lowest responsible bidder was awarded a contract. The director may obtain as many lines as reasonably needed for emergencies where landlines are unavailable to serve the county or municipality. The director and phone service provider should collaborate to obtain the following:

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(1) The emergency mobile-phone number may be the county prefix and end in 0911, as feasible for the phone service provider;

(2) The emergency mobile-phone service provider should permit roll-over service to allow multiple callers to dial into the amount of lines purchased; and

(3) The emergency mobile-phone service provider should provide the lowest possible cost.

Nothing in this subsection shall be construed to prohibit or discourage in any way the establishment of multijurisdictional or regional systems, or multijurisdictional or regional agreements for the establishment of emergency mobile-telephone systems. This section shall be effective July 1, 2020.

(k) Emergency mobile-phone contracts entered into pursuant to subsection (j) of this section may be paid from funds received by the Public Service Commission relating to 911 fees remitted to the county or by other county funds. A report of the funds expended for subsection (j) of this section shall be presented to the interim Joint Committee on Government Organization no later than November 30, 2020, to ensure the fiscal responsibility and efficacy of this section.

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§24-6-6. Enhanced emergency telephone system proposed requirement.

(a) If a county commission decides to adopt an enhanced emergency services telephone system it shall first prepare a proposal on the implementation of the system and shall hold a public meeting on the proposal to explain the system and receive comments from other public officials and interested persons. At least thirty but not more than sixty days before the meeting, the county commission shall place an advertisement in a newspaper of general circulation in the county notifying the public of the date, purpose and location of the meeting and the location at which a copy of the proposal may be examined.

(b) The proposal and the final plan adopted by the county commission shall specify:

(1) Which telephone companies serving customers in the county will participate in the system;

(2) The location and number of county answering points; how they will be connected to a telephone company's telephone network; from what geographic territory each will receive system calls; what areas will be served by the answering point; and whether an answering point will respond to calls by directly dispatching an emergency service provider, by relaying a message to the appropriate provider, or by transferring the call to the appropriate provider;

(3) A projection of the initial cost of establishing, equipping and furnishing and of the annual cost of the first five years of operating and maintaining each county answering point;

(4) How the county will pay for its share of the system's cost; and

(5) How each emergency service provider will respond to a misdirected call.

(c) Within three months of the public meeting required by this section the county commission may modify the implementation proposal. Upon completion and adoption of the plan by the commission, it shall send a copy of the plan to the Public Service Commission, who shall file such plan and ensure that its provisions are complied with.

(d) After a plan is adopted, all telephone companies included in the plan are subject to the specific requirements of the plan and the applicable requirements of this article.

(e) A final plan may be amended only after notice of the proposed amendments is given, as provided in subsection (a) of this section and a new public meeting is held.

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§24-6-6a. Alternate procedure for proposal by the department of public safety.

(a) In any county or counties which have areas thereof not receiving service from an enhanced emergency services telephone system, the department of public safety may prepare a proposal on the implementation of such a system and may cause a public meeting to be held on the proposal to explain the system and receive comments from the members of the county commission and from other public officials and interested persons. At least thirty, but not more than sixty days, before such a meeting, the department of public safety shall place an advertisement in a newspaper of general circulation in the county notifying the members of the county commission or county commission and the public of the date, purpose and location of the meeting and the location at which a copy of the proposal may be examined.

(b) The proposal prepared by the department of public safety shall conform to the requirements of subsection (b), section six of this article and shall be further modified, adopted, filed or amended by the county commission only in conformity with said section six.

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§24-6-6b. Wireless enhanced 911 fee; public safety wireless fee; wireless tower fee.

(a) All CMRS providers as defined in §24-6-2 of this code shall, on a monthly basis or otherwise for good cause and as directed by order of the Public Service Commission, collect from each of their in-state two-way service subscribers a wireless enhanced 911 fee, a public safety fee, and a wireless tower fee. As used in this section "in-state two-way service subscriber" has the same meaning as that set forth in the rules of the Public Service Commission. The CMRS providers shall, on a monthly basis, after retaining a billing fee of three percent of the sum of the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee, send moneys collected from the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee to the Public Service Commission.

(b) The wireless enhanced 911 fee is $3.47 per month for each valid in-state two-way service subscriber, as that term is defined by Public Service Commission rules.

Beginning in the year 2021, and every two years thereafter, the Public Service Commission shall conduct a survey of the enhanced 911 fees imposed by counties and shall recalculate the wireless enhanced 911 fee so that increases or decreases by the same percentage as the change in the weighted average rounded to the nearest penny, as of March 1 of the respecification year, of all of the enhanced 911 fees imposed by the counties which have adopted an enhanced 911 ordinance: *Provided,* That the wireless enhanced 911 fee may never be increased by more than 25 percent of its value at the beginning of the respecification year: *Provided, however,* That the fee may never be less than the amount set in subsection (b) of this section.

(c) The Public Service Commission shall, on a quarterly and approximately evenly staggered basis, disburse wireless enhanced 911 fee revenue in the following manner:

(1) Each county that does not have a 911 ordinance in effect as of the original effective date of this section in the year 1997, or has enacted a 911 ordinance within the five years prior to the original effective date of this section in the year 1997, shall receive eight and one-half tenths of one percent of the fee revenues received by the Public Service Commission: *Provided,* That after the effective date of this section, in the year 2005, when two or more counties consolidate into one county to provide government services, the consolidated county shall receive one percent of the fee revenues received by the Public Service Commission for itself and for each county merged into the consolidated county. Each county shall receive eight and one-half tenths of one percent of the remainder of the wireless enhanced 911 fee revenues received by the Public Service Commission: *Provided, however,* That after the effective date of this section, in the year 2005, when two or more counties consolidate into one county to provide government services, the consolidated county shall receive one percent of the fee revenues received by the Public Service Commission for itself and for each county merged into the consolidated county. Then, from any moneys remaining, each county shall receive a pro rata portion of that remainder based on that county's population as determined in the most recent decennial census as a percentage of the state total population. The Public Service Commission shall recalculate the county disbursement

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percentages on a yearly basis, with the changes effective on July 1, and using data as of the preceding March 1. The public utilities which normally provide local exchange telecommunications service by means of lines, wires, cables, optical fibers, or by other means extended to subscriber premises shall supply the data to the Public Service Commission on a county specific basis no later than June 1 of each year;

(2) Counties which have an enhanced 911 ordinance in effect shall receive their share of the wireless enhanced 911 fee revenue for use in the same manner as the enhanced 911 fee revenues received by those counties pursuant to their enhanced 911 ordinances;

(3) The Public Service Commission shall deposit the wireless enhanced 911 fee revenue for each county which does not have an enhanced 911 ordinance in effect into an escrow account which it has established for that county. Any county with an escrow account may, immediately upon adopting an enhanced 911 ordinance, receive the moneys which have accumulated in the escrow account for use as specified in subdivision (2) of this subsection: *Provided,* That a county that adopts a 911 ordinance after the original effective date of this section in the year 1997, or has adopted a 911 ordinance within five years of the original effective date of this section in the year 1997, shall continue to receive one percent of the total 911 fee revenue for a period of five years following the adoption of the ordinance. Thereafter, each county shall receive that county's eight and one-half tenths of one percent of the remaining fee revenue, plus that county's additional pro rata portion of the fee revenues then remaining, based on that county's population as determined in the most recent decennial census as a percentage of the state total population: *Provided, however,* That every five years from the year 1997, all fee revenue residing in escrow accounts shall be disbursed on the pro rata basis specified in subdivision (1) of this subsection, except that data for counties without enhanced 911 ordinances in effect shall be omitted from the calculation and all escrow accounts shall begin again with a zero balance. From any funds distributed to a county pursuant to this section, a total of three percent shall be set aside in a special fund to be used exclusively for the purchase of equipment that will provide information regarding the x and y coordinates of persons who call an emergency telephone system through a commercial mobile radio service: *Provided further*, That upon purchase of the necessary equipment, the special fund shall be dissolved and any surplus shall be used for general operation of the emergency telephone system as may otherwise be provided by law.

(d) Beginning July 1, 2020, CMRS providers shall collect the public safety fee from each in-state two-way service subscriber. The public safety fee shall be 29 cents per month and will be shown as a separate fee on the subscriber's bill. On a monthly basis, the Public Service Commission will distribute 10 cents of the public safety fee to the West Virginia State Police to be used for equipment upgrades for improving and integrating their communication efforts with those of the enhanced 911 systems, and the Public Service Commission will deposit 19 cents of the public safety fee in a special fund established by the Division of Homeland Security and Emergency Management to be used solely for the construction, maintenance, and upgrades of the West Virginia Interoperable Radio Project and any other costs associated with establishing and maintaining the infrastructure of the system. Any

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funds remaining in this fund at the end of the fiscal year shall automatically be reappropriated for the following year.

(e) Beginning July 1, 2020, CMRS providers shall collect the wireless tower fee from each in-state two-way service subscriber. The wireless tower fee shall be 8 cents per month and will be shown as a separate fee on the subscriber's bill. On a monthly basis, the commission shall distribute the wireless tower fee to a fund administered by the Public Service Commission, entitled the Wireless Tower Access Assistance Fund, to subsidize the construction of wireless towers. The moneys shall be expended in accordance with an enhanced 911 wireless tower access matching grant order adopted by the Public Service Commission. The commission order shall contain terms and conditions designed to provide financial assistance loans or grants to state agencies, political subdivisions of the state, and wireless telephone carriers for the acquisition, equipping, and construction of new wireless towers, which would not be available otherwise due to marginal financial viability of the applicable tower coverage area: *Provided*, That the grants shall be allocated among potential sites based on application from county commissions demonstrating the need for enhanced 911 wireless coverage in specific areas of this state. Any tower constructed with assistance from the fund created by this subsection shall be available for use by emergency services, fire departments, and law-enforcement agencies' communications equipment, so long as that use does not interfere with the carriers' wireless signal.

(f) CMRS providers have the same rights and responsibilities as other telephone service suppliers in dealing with the failure by an in-state two-way service subscriber to timely pay the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee.

(g) Notwithstanding the provisions of §24-6-1a of this code, for the purposes of this section, the term "county" means one of the counties provided in §1-1-1 of this code.

(h) Notwithstanding anything to the contrary in this code, prepaid wireless calling service is not subject to the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee.

(i) The Public Service Commission shall promulgate rules in accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this section. The Public Service Commission may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.

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§24-6-7. Resolution of conflicts.

In the event that a conflict arises between county commissions, between telephone companies, between a telephone company or companies and a county commission or commissions, or between the department of public safety and any of the foregoing entities concerning an emergency telephone system or systems or an enhanced emergency telephone system or systems, the Public Service Commission, upon application by such county commission, telephone company or department of public safety, shall resolve such conflict. The resolution of such conflict may include the modification or suspension of any final plan adopted pursuant to section six or six-a of this article or the ordering of the centralization of emergency telephone systems and enhanced emergency telephone systems.

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§24-6-8. Limitation of liability.

A public agency or a telephone company participating in an emergency telephone system or a county which has established an enhanced emergency telephone system, and any officer, agent or employee of the public agency, telephone company or county is not liable for damages in a civil action for injuries, death or loss to persons or property arising from any act or omission, except willful or wanton misconduct, in connection with developing, adopting or approving any final plan or any agreement made pursuant to this article, or otherwise bringing into operation or participating in the operation of an emergency telephone system or an enhanced emergency telephone system pursuant to this article.

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§24-6-9. Prohibitions and penalty.

(a) No person may knowingly use the telephone number of an emergency telephone system or enhanced emergency telephone system to report an emergency if he or she knows that no such emergency exists.

(b) No person may disclose or use, for any purpose other than for an emergency telephone system or enhanced emergency telephone system, any information contained in the database used for either an emergency telephone system or an enhanced emergency telephone system established pursuant to this article.

(c) Any person who violates any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $200 nor more than $5,000, or imprisoned in the county jail not more than one year, or both fined and imprisoned.

WV Legislature

§24-6-10. Prohibition against using "911" in company name.

No person or organization of any kind may use "911" or such other numbers which are similar and calculated to deceive the public as representing "911" services in their name unless the person or organization is authorized to provide emergency telephone services for firefighting, law enforcement and medical personnel. The Public Service Commission shall propose rules for legislative promulgation in accordance with article three, chapter twenty-nine-a of this code regarding the acceptable use of "911" and shall have the authority to authorize any organization or person to use "911" for the purposes of promoting the education of the public regarding the "911" service. This section may not be construed as affecting motor vehicle license plate numbers issued by the Division of Motor Vehicles, or race cars that use a "911" logo, when the number is not used for purposes of deceiving the public that the operator or owner operates "911" services. Any person or organization convicted of a violation of this section shall be guilty of a misdemeanor, punishable by a fine of not more than $500 per occurrence.

WV Legislature

§24-6-11. Confidentiality of proprietary information.

In recognition of the fact that information pertaining to numbers of customers and revenues collected by the CMRS providers is obtained and maintained in a competitive environment and that information pertaining to the providers' subscribers could be used to the disadvantage of the participating CMRS provider, the Legislature declares that any such information provided by the Public Service Commission and any county or enhanced 911 program, is not subject to disclosure under the provisions of chapter twenty-nine-b of this code.

WV Legislature

§24-6-12. Dispatching of towing services for emergency towing of vehicles; exceptions.

(a) Every three years, the county commission of each county or the municipality operating an emergency telephone system or an enhanced emergency telephone system shall, in consultation with all public safety units, public agencies and all available towing services registered as common carriers pursuant to the provisions of chapter twenty-four-a of this code, establish a policy that provides for the most prompt, fair, equitable and effective response to requests or dispatches for emergency towing services.

(b) For each incident where towing services are required, the public agency procuring towing services shall maintain a public record of the name of the towing service utilized.

WV Legislature

§24-6-13. Confidentiality of certain calls to county answering points and records; retention of records.

(a) Except as provided by the provisions of this section, calls for emergency service to a county answering point are not confidential. All calls for emergency service reporting alleged criminal conduct which are recorded electronically, in writing or in any other form are to be kept confidential by the county answering point receiving the call and may be released only pursuant to an order entered by a court of competent jurisdiction, a valid subpoena or through the course of discovery in a criminal action requiring the release of the information: *Provided,* That nothing contained in this section may be construed as preventing the county answering point from releasing information to a responding agency as may be necessary for that agency's response on a call or the completion of necessary reports relating to that call.

(b) Upon proper request and payment of a reasonable fee set by the center director to cover the cost of production, a person or entity may obtain, without court order or a valid subpoena, a transcription of a call for emergency service reporting alleged criminal conduct. The answering point shall exclude from the transcription any information relating to the identity of the caller including, but not limited to, the caller's name, address, telephone number or his or her location in relation to the alleged offense or the alleged perpetrator. If the transcript of a call is such that it cannot be successfully redacted so as to protect the identity of the caller, the answering point may decline to provide the transcript. In that case, the person requesting the transcription may apply to a court of competent jurisdiction for a court order releasing the transcript.

(c) All calls for emergency service which are recorded electronically, in writing or in any other form are to be maintained for a period of at least two years or longer if required by an order entered by a court of competent jurisdiction or a valid subpoena.

(d) A county answering point may release information to bonafide law-enforcement agencies, the prosecuting attorney of a county or a United States attorney pursuant to a lawful criminal investigation. Nothing in this article may be construed as prohibiting a freedom of information request under §29B-1-1 *et seq.* of this code for information relating to the operation of the center or to calls for emergency service which do not involve reporting of alleged criminal conduct.

(e) Nothing in this article requires disclosure of any information that is specifically exempt from disclosure by statute. Except as otherwise provided in this article, nothing prohibits disclosure of information that is not specifically exempted from disclosure under a provision of this code.

(f) Every county answering point shall, within 90 days of the effective date of this section, promulgate a written policy, available to the public, reflecting its compliance with the provisions of this section.

WV Legislature

(g) No answering point or center personnel may be civilly liable for any injury arising from disclosure of information pursuant to the provisions of this section.

WV Legislature

§24-6-14. Notification of mining accidents.

Each county answering point that receives a call reporting an accident in or about any mine shall immediately route the call to the Mine and Industrial Accident Emergency Operations Center created pursuant to section two, article five-a, chapter fifteen of this code.

WV Legislature

§24-6-15. Commission to implement NG911 in West Virginia.

[Repealed.]

WV Legislature