

No. 566

RECEIVED
1989 APR 25 AM 10:42
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

—•—
ENROLLED
Committee Substitute for
SENATE BILL NO. 566

(By Senator *Tucker, Mr. President,*)

—•—
PASSED *April 7,* 1989
In Effect *from* **Passage**

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 566

(SENATOR TUCKER, MR. PRESIDENT, *Original Sponsor*)

[Passed April 7, 1989; in effect from passage.]

AN ACT to amend and reenact section twelve, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections three, four, five and seven, article six, chapter twenty-four of said code; and to further amend article six of said chapter by adding thereto a new section, designated section six-a, all relating to local emergency telephone systems; sharing of certain authority with public service commission by department of public safety; and allowing department of public safety to participate in developing a comprehensive plan, preparing a proposal and for causing a public meeting therein.

Be it enacted by the Legislature of West Virginia:

That section twelve, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections three, four, five and seven, article six, chapter twenty-four of said code be amended and reenacted; and that article six of said chapter be further amended by adding thereto a new section, designated section six-a, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-12. Mission of the department; powers of superintendent, officers and members; patrol of turnpike.

1 (a) The West Virginia department of public safety
2 shall have the mission of statewide enforcement of
3 criminal and traffic laws with emphasis on providing
4 basic enforcement and citizen protection from criminal
5 depredation throughout the state and maintaining
6 the safety of the state's public streets, roads and
7 highways.

8 (b) The superintendent and each of the officers and
9 members of the department are hereby empowered:

10 (1) To make arrests anywhere within the state of
11 any persons charged with the violation of any law of
12 this state, or of the United States, and when a witness
13 to the perpetration of any offense or crime, or to the
14 violation of any law of this state, or of the United
15 States, may arrest without warrant; to arrest and
16 detain any persons suspected of the commission of any
17 felony or misdemeanor whenever complaint is made
18 and warrant is issued thereon for such arrest, and any
19 person so arrested shall be forthwith brought before
20 the proper tribunal for examination and trial in the
21 county where the offense for which any such arrest
22 has been made was committed;

23 (2) To serve criminal process issued by any court or
24 magistrate anywhere within this state (they shall not
25 serve civil process); and

26 (3) To cooperate with local authorities in detecting
27 crime and in apprehending any person or persons
28 engaged in or suspected of the commission of any
29 crime, misdemeanor or offense against the law of this
30 state, or of the United States, or of any ordinance of
31 any municipality in this state; and to take affidavits in
32 connection with any application to the department of
33 highways, department of motor vehicles and depart-
34 ment of public safety of West Virginia for any license,

35 permit or certificate that may be lawfully issued by
36 these departments of state government.

37 (c) Members of the department of public safety are
38 hereby created forest patrolmen and game and fish
39 wardens throughout the state to do and perform any
40 duties and exercise any powers of such officers, and
41 may apprehend and bring before any court or magis-
42 trate having jurisdiction of such matters, anyone
43 violating any of the provisions of chapters twenty,
44 sixty and sixty-one of this code, and the department of
45 public safety shall at any time be subject to the call of
46 the West Virginia alcohol beverage control commis-
47 sioner to aid in apprehending any person violating any
48 of the provisions of said chapter sixty of this code.
49 They shall serve and execute warrants for the arrest
50 of any person and warrants for the search of any
51 premises issued by any properly constituted authority,
52 and shall exercise all of the powers conferred by law
53 upon a sheriff. They shall not serve any civil process
54 or exercise any of the powers of such officer in civil
55 matters.

56 (d) Any member of the department of public safety
57 knowing or having reason to believe that anyone has
58 violated the law may make complaint in writing
59 before any court or officer having jurisdiction and
60 procure a warrant for such offender, execute the same
61 and bring such person before the proper tribunal
62 having jurisdiction. He shall make return on all such
63 warrants to such tribunals and his official title shall be
64 "member of the department of public safety."
65 Members of the department of public safety may
66 execute any summons or process issued by any tribu-
67 nal having jurisdiction requiring the attendance of any
68 person as a witness before such tribunal and make
69 return thereon as provided by law, and any return by
70 a member of the department of public safety showing
71 the manner of executing such warrant or process shall
72 have the same force and effect as if made by a sheriff.

73 (e) Each member of the department of public safety,
74 when called by the sheriff of any county, or when the
75 governor by proclamation so directs, shall have full

76 power and authority within such county, or within the
77 territory defined by the governor, to direct and
78 command absolutely the assistance of any sheriff,
79 deputy sheriff, chief of police, policeman, game and
80 fish warden, and peace officer of the state, or of any
81 county or municipality therein, or of any able-bodied
82 citizen of the United States, to assist and aid in
83 accomplishing the purposes expressed in this article.
84 When so called, any officer or person shall, during the
85 time his assistance is required, be for all purposes, a
86 member of the department of public safety and
87 subject to all the provisions of this article.

88 (f) The superintendent may also assign members of
89 the department to perform police duties on any
90 turnpike or toll road, or any section thereof, operated
91 by the West Virginia turnpike commission: *Provided,*
92 That such turnpike commission shall reimburse the
93 department of public safety for salaries paid to such
94 members, and shall either pay directly or reimburse
95 the department for all other expenses of such group of
96 members in accordance with actual or estimated costs
97 determined by the superintendent.

98 (g) The department of public safety may develop
99 proposals for comprehensive county or multi-county
100 plan on the implementation of an enhanced Emer-
101 gency Service telephone system and for causing a
102 public meeting on such proposals, all as set forth in
103 section six-a, article six, chapter twenty-four of this
104 code.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.

§24-6-3. Adoption of emergency telephone system plan; department of public safety to adopt alter- nate plan.

1 (a) The public service commission shall develop,
2 adopt and periodically review a comprehensive plan
3 establishing the technical and operational standards to
4 be followed in establishing and maintaining emer-
5 gency telephone systems.

6 (b) In developing the comprehensive plan, the public
7 service commission shall consult with telephone
8 companies, and with the various public agencies and
9 public safety units, including, but not limited to,
10 emergency services organizations.

11 (c) The public service commission shall annually
12 review with each operating telephone company their
13 construction and switching replacements projections.
14 During this review, the public service commission
15 shall ensure that all new switching facilities will
16 accommodate the emergency telephone system.

17 (d) The department of public safety shall participate
18 in proceedings conducted under subsection (a) of this
19 section. Additionally, the department of public safety
20 may actively participate in the annual review required
21 by subsection (c) of this section.

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

1 (a) Upon the adoption by the public service commis-
2 sion of a comprehensive plan, the public agency may
3 establish, consistent with the comprehensive plan, an
4 emergency telephone system within its respective
5 jurisdiction. Nothing herein contained, however, shall
6 be construed to prohibit or discourage in any way the
7 establishment of multijurisdiction or regional systems,
8 and any emergency telephone system established
9 pursuant to this article may include the territory of
10 more than one public agency, or may include only a
11 portion of the territory of a public agency. To the
12 extent feasible, emergency telephone systems shall be
13 centralized.

14 (b) Every emergency telephone system shall provide
15 access to emergency services organizations, police, fire
16 fighting, and emergency medical and ambulance
17 services and may provide access to other emergency
18 services. Such system may also provide access to
19 private ambulance services. The emergency telephone
20 system shall provide the necessary mechanical equip-
21 ment at the established public agency answering point
22 to allow deaf persons access to the system. In those
23 areas in which a public safety unit of the state

24 provides emergency services, the system shall provide
25 access to the public safety unit.

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

29 (d) A telephone company in the normal course of
30 replacing or making major modifications to its switch-
31 ing equipment shall include the capability of providing
32 for the emergency telephone system and shall bear all
33 costs related thereto. All charges for other services and
34 facilities provided by the telephone company, includ-
35 ing the provision of distribution facilities and station
36 equipment, shall be paid for by the public agency or
37 public safety unit in accordance with the applicable
38 tariff rates then in effect for such services and
39 facilities. Other costs pursuant to the emergency
40 telephone system shall be allocated as determined by
41 the applicable comprehensive plan of the public
42 service commission.

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

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

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

3 (1) All the territory in the county, including every
4 municipal corporation in the county, which is served
5 by telephone company central office equipment that
6 will permit such a system to be established shall be
7 included in the system;

8 (2) Every emergency service provider that provides
9 emergency service within the territory of a county

10 participate in the system;

11 (3) Each county answering point be operated
12 constantly;

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

16 (5) If the county answering point personnel reason-
17 ably determine that a call is not an emergency the
18 personnel provide the caller with the number of the
19 appropriate emergency service provider.

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

22 (c) In developing an enhanced emergency telephone
23 system, the county commission or the department of
24 public safety shall seek the advice of both the tele-
25 phone companies providing local exchange service
26 within the county and the local emergency providers.

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

1 (a) In any county or counties which have areas
2 thereof not receiving service from an enhanced
3 emergency services telephone system, the department
4 of public safety may prepare a proposal on the imple-
5 mentation of such a system and may cause a public
6 meeting to be held on the proposal to explain the
7 system and receive comments from the members of
8 the county commission and from other public officials
9 and interested persons. At least thirty, but not more
10 than sixty days, before such a meeting, the depart-
11 ment of public safety shall place an advertisement in
12 a newspaper of general circulation in the county
13 notifying the members of the county commission or
14 county commission and the public of the date, purpose
15 and location of the meeting and the location at which
16 a copy of the proposal may be examined.

17 (b) The proposal prepared by the department of
18 public safety shall conform to the requirements of
19 subsection (b), section six of this article and shall be

20 further modified, adopted, filed or amended by the
21 county commission only in conformity with said
22 section six.

§24-6-7. Resolution of conflicts.

1 In the event that a conflict arises between county
2 commissions, between telephone companies, between
3 a telephone company or companies and a county
4 commission or commissions, or between the depart-
5 ment of public safety and any of the foregoing entities
6 concerning an emergency telephone system or systems
7 or an enhanced emergency telephone system or
8 systems, the public service commission, upon applica-
9 tion by such county commission, telephone company
10 or department of public safety, shall resolve such
11 conflict. The resolution of such conflict may include
12 the modification or suspension of any final plan
13 adopted pursuant to section six or six-a of this article
14 or the ordering of the centralization of emergency
15 telephone systems and enhanced emergency telephone
16 systems.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick R. Parker
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Irvin C. Nichols
.....
Clerk of the Senate

Donald J. Vopp
.....
Clerk of the House of Delegates

Sam A. Tucker
.....
President of the Senate

Bob Wahl
.....
Speaker House of Delegates

The within *is* approved this the *24th*
day of *April* 1989
Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/14/89

Time

4:50