WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

ENROLLED
Committee Substitute For
SENATE BILL NO. 278

(By Senators LOVE, BAILEY, & Wooton)

PASSED April 12, 1997
In Effect NINETY DAYS FROM PASSAGE
ENROLLED

COMMITTEE SUBSTITUTE FOR

Senate Bill No. 278

(SENATORS LOVE, BAILEY AND WOOTON, original sponsors)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, four and eight, article six, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections six-b and eleven, all relating to local emergency telephone systems; defining terms; requiring telephone companies to provide capability for an emergency telephone system if consistent with federal law and regulations; providing for a wireless enhanced 911 fee; public service commission to issue order concerning fee; setting fee; collection and distribution of fee; limiting liability for telephone companies participating in an emergency telephone system; and providing for
Be it enacted by the Legislature of West Virginia:

That sections two, four and eight, article six, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto two new sections, designated sections six-b and eleven, all to read as follows:

ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.

§24-6-2. Definitions.

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

1. "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 Communication Commission, which offer real-time, two-way switched voice service that is interconnected with the public switched network, and includes resellers of any commercial mobile radio service.

2. "County answering point" means a facility to which enhanced emergency telephone system calls for a county 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.

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

4. "Emergency service provider" means any emergency services organization or public safety unit.

5. "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.

(6) "Enhanced emergency telephone system" means a
telephone system which automatically connects the person
dialing the primary emergency number to the county
answering point and in which the telephone network
system automatically provides to personnel receiving the
call, immediately on answering the call, information on
the location and the telephone number from which the call
is being made, and upon direction from the personnel
receiving the call routes or dispatches the call by tele-
phone, radio or any other appropriate means of communi-
cation to emergency service providers that serve the
location from which the call is made.

(7) "Public agency" means the state, and any municip-
ality, county, public district or public authority which
provides or has authority to provide fire fighting, police,
ambulance, medical, rescue or other emergency services.

(8) "Public safety unit" means a functional division of a
public agency which provides fire fighting, police, medi-
cal, rescue or other emergency services.

(9) "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.

(10) "Comprehensive plan" means a plan pertaining to
the installing, modifying or replacing of telephone switch-
ing 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 emer-
gency service organizations.

(11) "Technical and operational standards" means those
standards of telephone equipment and processes necessary
for the implementation of the comprehensive plan as
defined in subdivision (9) of this subsection.
§24-6-4. Creation of emergency telephone systems.

(a) Upon the adoption by the public service commission of 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 multi-jurisdiction 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.

§24-6-6b. Wireless enhanced 911 fee.

(a) Beginning on the first day of January, one thousand nine hundred ninety-eight, all CMRS providers, as defined in section two of this article, shall, on a monthly basis, collect from each of their in-state two-way service subscribers a wireless enhanced 911 fee. No later than the first day of August, one thousand nine hundred ninety-eight, the public service commission, shall, after the receipt of comments and the consideration of evidence presented at a hearing, issue an order which directs the CMRS providers regarding all relevant details of wireless enhanced 911 fee collection, including the determination of who is considered an in-state two-way service subscriber and which shall specify how the CMRS providers shall deal with fee collection shortfalls caused by uncollectible accounts. The public service commission shall solicit the views of the wireless telecommunications utilities prior to issuing the order.

(b) The wireless enhanced 911 fee is seventy-five cents per month for each valid retail commercial mobile radio service subscription, as that term is defined by the public service commission in its order issued under subsection (a) of this section.

(c) Beginning in the year one thousand nine hundred ninety-seven, and every two years thereafter, the public service commission shall conduct an audit of the wireless enhanced 911 fee and shall recalculate the fee so that it is the weighted average rounded to the nearest penny, as of
the first day of March 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 twenty-five percent of its value at the beginning of
the respecification year.

(d) The CMRS providers shall, after retaining a three
percent billing fee, send the wireless enhanced 911 fee
moneys collected, on a monthly basis, to the public service
commission. The public service commission shall, on a
quarterly and approximately evenly staggered basis,
disburse the fee revenue in the following manner:

(1) Each county that does not have a 911 ordinance in
effect as of the effective date of this section or has enacted
a 911 ordinance within the five years prior to the effective
date of this section shall receive one percent of the fee
revenues received by the public service commission and
from the remainder of the revenues, each county shall
receive a pro rata portion of the fee revenues received by
the public service commission based on that county's
percentage of the total number of local exchange tele-
phone access lines and line equivalents in service in the
state. The public service commission shall recalculate the
county disbursement percentages on a yearly basis, with
the changes effective on the first day of July, and using
data as of the preceding first day of March. The public
utilities which normally provide local exchange telecom-
munications 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 the
first day of June 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 en-
hanced 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), subsection (d) of this section: Provided, That a county that adopts a 911 ordinance after the effective date of this section or has adopted a 911 ordinance within five years of the effective date of this section shall continue to receive one percent of the 911 fee revenue for a period of five years following the adoption of the ordinance and thereafter shall receive that county's portion of the fee revenue being disbursed to counties on a pro rata basis: Provided, however, That every five years from the year one thousand nine hundred ninety-seven, all fee revenue residing in escrow accounts shall be disbursed on the pro rata basis specified in subdivision (1), subsection (d) of this section, 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.

(e) CMRS providers have the same rights and responsibilities as other telephone service suppliers in dealing with the failure by a subscriber of a CMRS provider to timely pay the wireless enhanced 911 fee.

(f) Notwithstanding the provisions of section one-a of this article, for the purposes of this section, the term “county” means one of the counties provided for in section one, article one, chapter one of this code.

(g) From any funds distributed to a county pursuant to this section, a total of three percent quarter 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, 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.
§24-6-8. Limitation of liability.

1. 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.

§24-6-10. Confidentiality of proprietary information.

1. 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.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 7th day of May, 1997.

Governor