

SB0212S01 compared with SB0212

~~text~~ shows text that was in SB0212 but was deleted in SB0212S01.

text shows text that was not in SB0212 but was inserted into SB0212S01.

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Senator Wayne A. Harper proposes the following substitute bill:

UTAH COMMUNICATIONS AUTHORITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to the Utah Communications Authority Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Retirement and Independent Entities Committee to provide recommendations regarding the Utah Communications Authority to the Legislative Management Committee;
- ▶ increases the amount of funds that can be distributed to a qualifying public safety answering point ("PSAP");
- ▶ requires a PSAP to be designated as an emergency medical service dispatch center to receive certain funds;

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- ▶ clarifies how long funds will not be distributed to a non-qualifying PSAP;
- ▶ allows a public agency to create a PSAP to provide 911 service to non-contiguous areas in certain situations; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63E-1-202, as last amended by Laws of Utah 2002, Chapter 250

63H-7a-102, as last amended by Laws of Utah 2019, Chapter 509

63H-7a-202, as last amended by Laws of Utah 2020, Chapter 368

63H-7a-304.5, as enacted by Laws of Utah 2020, Chapter 368

63H-7a-402, as last amended by Laws of Utah 2019, Chapter 509

69-2-201, as last amended by Laws of Utah 2020, Chapter 368

69-2-203, as last amended by Laws of Utah 2020, Chapter 368

69-2-204, as enacted by Laws of Utah 2020, Chapter 368

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63E-1-202 is amended to read:

63E-1-202. Duties of the committee.

(1) The committee shall:

(a) study the scope of this title and determine what entities should be treated under this title as independent entities;

(b) study the provisions of the Utah Code that govern each independent entity, including whether or not there should be consistency in these provisions;

(c) study what provisions of the Utah Code, if any, from which each independent entity should be exempted;

(d) study whether or not the state should receive services from or provide services to each independent entity;

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- (e) request and hear reports from each independent entity;
 - (f) review the annual audit of each independent entity that is performed in accordance with the statutes governing the independent entity;
 - (g) comply with Part 3, Creation of Independent Entities, in reviewing a proposal to create a new independent entity;
 - (h) if the committee recommends a change in the organizational status of an independent entity as provided in Subsection (2) and subject to Part 4, Privatization of Independent Entities, recommend the appropriate method of changing the organizational status of the independent entity;
 - (i) study the following concerning an entity created by local agreement under Title 11, Chapter 13, Interlocal Cooperation Act, if the state is a party to the agreement creating the entity:
 - (i) whether or not the entity should be subject to this chapter;
 - (ii) whether or not the state should receive services from or provide services to the entity;
 - (iii) reporting and audit requirements for the entity; and
 - (iv) the need, if any, to modify statutes related to the entity;
 - (j) make a recommendation on the organizational status of each independent entity prior to the 2002 General Session; and
 - (k) report annually to the Legislative Management Committee by no later than the Legislative Management Committee's November meeting.
- (2) The committee may:
- (a) establish a form for any report required under Subsection (1);
 - (b) make recommendations to the Legislature concerning the organizational status of an independent entity;
 - (c) advise the Legislature concerning issues involving independent entities; and
 - (d) study issues related to the implementation of Title 49, Utah State Retirement and Insurance Benefit Act.

(3) (a) As part of the committee's annual report described in Subsection (1)(k) to be presented by the November 2023 Legislative Management Committee meeting, the committee shall provide specific recommendations for the Utah Communications Authority.

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(b) The report described in Subsection (3)(a) shall include recommendations regarding:

(i) the Utah Communication Authority's:

(A) administration;

(B) financial accountability;

(C) current and future needs;

(D) assets;

(E) history; and

(F) organizational status as an independent entity; and

(ii) any need to modify statutes related to the entity.

Section ~~{1}~~2. Section **63H-7a-102** is amended to read:

63H-7a-102. Utah Communications Authority -- Purpose.

(1) This chapter establishes the Utah Communications Authority as an independent state agency.

(2) The Utah Communications Authority shall:

(a) provide administrative and financial support for statewide 911 emergency services; and

(b) establish and maintain a statewide public safety communications network for [~~state agencies, public safety agencies, and public safety answering points.~~] all state, city, county, and local governmental entities.

Section ~~{2}~~3. Section **63H-7a-202** is amended to read:

63H-7a-202. Powers and duties of the Utah Communications Authority.

(1) The authority has the power to:

(a) sue and be sued in the authority's own name;

(b) have an official seal and power to alter that seal at will;

(c) make and execute contracts and all other instruments necessary or convenient for the performance of the authority's duties and the exercise of the authority's powers and functions under this chapter, including contracts with public and private providers;

(d) own, acquire, design, construct, operate, maintain, repair, and dispose of any portion of a public safety communications network utilizing technology that is fiscally prudent, upgradable, technologically advanced, redundant, and secure;

(e) borrow money and incur indebtedness;

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(f) enter into agreements with public agencies, private persons, the state, and federal government to provide public safety communications network services on terms and conditions the authority considers to be in the best interest of the authority;

(g) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a public safety communications network and all related facilities and rights-of-way that the authority owns, operates, and maintains;

(h) sell, lease, or trade public safety communications network capacity, except backhaul network capacity, to a state agency, a political subdivision of the state, or an agency of the federal government;

(i) sell, lease, or trade backhaul network capacity to a state agency, a political subdivision of the state, or an agency of the federal government for a public safety purpose;

(j) sell, lease, or trade backhaul network capacity to a state agency, a political subdivision of the state, or an agency of the federal government for a purpose other than a public safety purpose, subject to a maximum of 50 megabytes per second in the aggregate at any one location;

(k) subject to Subsection (2):

(i) sell, lease, or trade backhaul network capacity to a private person for a public safety purpose, subject to a maximum of 50 megabytes per second in the aggregate at any one location; or

(ii) sell, lease, or trade public safety communications network capacity, except backhaul network capacity, to a private person for any purpose;

(l) sell, lease, or trade public safety communications network capacity, if the sale, lease, or trade is under an agreement the authority entered into before June 30, 2020, or under an extension of an agreement that the authority entered into before June 30, 2020;

(m) review, approve, disapprove, or revise recommendations regarding the expenditure of funds disbursed by the authority under this chapter; and

(n) perform all other duties authorized by this chapter.

(2) (a) For a sale, lease, or trade to a private person under Subsection (1)(k), the authority shall require compensation from the private person that is:

(i) at fair market prices and reasonable;

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- (ii) competitively neutral;
- (iii) nondiscriminatory;
- (iv) open to public inspection; and
- (v) established to promote access by multiple telecommunication facility providers[;

and].

~~[(vi) set after the authority conducts a market analysis to determine the fair and reasonable value of public safety communications network capacity.]~~

~~[(b) The authority shall conduct the market analysis required under Subsection (2)(a)(vi):]~~

~~[(i) before a sale, lease, or trade to a private person under Subsection (1)(k), and]~~

~~[(ii) thereafter no less frequently than every five years.]~~

~~[(c)]~~ (b) (i) Compensation charged under Subsection (2)(a) may be cash, in-kind, or a combination of cash and in-kind.

(ii) In-kind compensation may not be charged without the agreement of the authority and the private person who will pay the in-kind compensation.

(iii) The authority shall determine the present value of any in-kind compensation based on the incremental cost to the private person.

(iv) The authority shall require the value of any in-kind compensation or combination of cash and in-kind compensation to be at least the amount of cash that would be paid if compensation were cash only.

(3) The authority shall work with PSAPs to identify and address deficiencies relating to PSAP staffing and training.

Section ~~33~~4. Section **63H-7a-304.5** is amended to read:

63H-7a-304.5. Distributions from 911 account to qualifying PSAPs.

(1) As used in this section:

(a) "Certified statement" means a statement signed by a PSAP's director or other authorized administrator certifying the PSAP's compliance with the requirements of Subsection (2)(a).

(b) "Fiscal year" means the period from July 1 of one year to June 30 of the following year.

(c) "Proportionate share" means a percentage derived by dividing a PSAP's average

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911 call volume, as reported to the State Tax Commission under Section 69-2-302, for the preceding three years by the total of the average 911 call volume for the same three-year period for all PSAPs that have submitted a certified statement seeking a distribution of the applicable remaining funds.

(d) "Qualifying PSAP" means a PSAP that:

(i) meets the requirements of Subsection (2)(a) for the period for which remaining funds are sought; and

(ii) submits a timely certified statement to the authority.

(e) "Remaining funds" means the money remaining in the 911 account after deducting:

(i) disbursements under Subsections 63H-7a-304(2)(a), (3), and (4);

(ii) authority expenditures or disbursements in accordance with the authority's strategic plan, including expenditures or disbursements to pay for:

(A) implementing, maintaining, or upgrading the public safety communications network or statewide 911 phone system; and

(B) authority overhead for managing the 911 portion of the public safety communications network; and

(iii) money that the board determines should remain in the 911 account for future use.

(f) "Required transfer rate" means:

(i) a transfer rate of no more than 2%; or

(ii) for a PSAP with a transfer rate for the fiscal year ending June 30, 2020, that is greater than 2%, and until June 30, 2023, the transfer rate that meets the requirement for the applicable period under Subsection 69-2-204(3)(a), (b), or (c).

(g) "Transfer rate" means the same as that term is defined in Section 69-2-204.

(2) (a) To qualify for a proportionate share of remaining funds, a PSAP shall, for the period for which remaining funds are sought:

(i) have answered:

(A) 90% of all 911 calls arriving at the PSAP within 15 seconds; and

(B) 95% of all 911 calls arriving at the PSAP within 20 seconds;

(ii) have adopted and be using the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the board under Subsection 63H-7a-204(17);

(iii) have participated in the authority's annual interoperability exercise; [and]

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(iv) have complied with the required transfer rate~~[.];~~ and

(v) be designated as an emergency medical service dispatch center according to Section 26-8a-303.

(b) A PSAP that seeks a proportionate share of remaining funds shall submit a certified statement to the authority no later than July 31 following the end of the fiscal year for which remaining funds are sought.

(c) Notwithstanding Subsection (2)(a):

(i) a qualifying PSAP in a county with multiple PSAPs does not qualify for a proportionate share of remaining funds for a period beginning after June 30, 2023, unless every PSAP in that county is a qualifying PSAP; and

(ii) a PSAP described in Subsection 69-2-203(5) does not qualify for remaining funds.

(3) (a) Subject to Subsection (3)(b) ~~[and beginning after July 2021],~~ for PSAPs that have become qualifying PSAPs for the previous fiscal year the authority shall distribute to each qualifying PSAP that PSAP's proportionate share of the remaining funds.

(b) The authority may not distribute more than ~~[+5%]~~ 20% of remaining funds to any single PSAP.

(4) All money that a PSAP receives under this section is subject to Section 69-2-301.

Section ~~{4}~~5. Section **63H-7a-402** is amended to read:

63H-7a-402. Radio Network Division duties.

(1) The Radio Network Division shall:

(a) provide and maintain the public safety communications network for ~~[state agencies and local government public safety agencies]~~ all political subdivisions in the state within the authority network, including the existing VHF and 700 and 800 MHz networks, in a manner that:

(i) promotes high quality, cost effective service;

(ii) evaluates the benefits, cost, existing facilities, equipment, and services of public and private providers; and

(iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services;

(b) prior to issuing one or more requests for proposal:

(i) prepare a report demonstrating the Radio Network Division has:

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(A) identified the locations and functional capabilities of existing public and private communications facilities in the state;

(B) specifically evaluated the benefits, costs, and economic feasibility of utilizing existing facilities, equipment, and services of public and private providers; and

(C) identified the public and private communications facilities that may be integrated with the public safety communications network; and

(ii) present the report to the board at an open and public board meeting;

(c) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the Radio Network Division;

(ii) an annual plan for the program funded by the Utah Statewide Radio System

Restricted Account created in Section 63H-7a-403; and

(iii) information required by the director to contribute to the comprehensive strategic plan described in Section 63H-7a-206;

(d) recommend to the executive director administrative rules for approval by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section 63H-7a-403, including rules that establish the criteria, standards, technology, equipment, and services that will qualify for goods or services that are funded from the restricted accounts; and

(e) fulfill other duties assigned to the Radio Network Division under this chapter.

(2) The Radio Network Division may:

(a) recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to the public safety communications network;

(b) recommend to the executive director to own, operate, or enter into contracts for the public safety communications network;

(c) review information regarding:

(i) in aggregate, the number of radio service subscribers by service type in a political subdivision; and

(ii) matters related to the public safety communications network;

(d) in accordance with Subsection (2)(c), request information from:

(i) local and state entities; and

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- (ii) public safety agencies; and
- (e) employ outside consultants to study and advise the division on issues related to:
 - (i) the public safety communications network;
 - (ii) radio technologies and services;
 - (iii) microwave connectivity;
 - (iv) fiber connectivity; and
 - (v) public safety communication network connectivity and usage.

(3) The information requested by and provided to the Radio Network Division under Subsections (2)(c) and (d) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section ~~5~~6. Section **69-2-201** is amended to read:

69-2-201. Public safety answering point -- Establishment -- Administration -- Consolidation.

(1) (a) A public agency may:

(i) operate a public safety answering point to provide 911 emergency service to any part of the geographic area within the public agency's jurisdiction;

(ii) subject to Subsection (1)(b), operate a public safety answering point with any other contiguous public agency to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions; ~~or~~

(iii) operate a public safety answering point under an agreement with another public agency that existed before January 1, 2017, to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions~~[-]; or~~

(iv) subject to Subsections (1)(b) and (c), operate a public safety answering point to provide 911 emergency service for all public safety agencies in a non-contiguous county of the fourth, fifth, or sixth class, if the public agency is located in a county of the fourth, fifth, or sixth class.

(b) A public agency that operates a public safety answering point in connection with ~~a contiguous~~ another public agency shall:

(i) provide for the operation of the public safety answering point by interlocal agreement between the public agencies; and

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(ii) submit a copy of the interlocal agreement each year to the director of the Utah Communications Authority.

(c) A public agency that operates a public safety answering point described in Subsection (1)(a)(iv) shall:

- (i) promote interoperability among the public agencies served;
- (ii) positively impact a large service territory;
- (iii) annually qualify for disbursements as described in Section 63H-7a-304.5; and
- (iv) maintain ~~that~~ designation as an emergency medical service dispatch center as described in Section 26-8a-303.

(2) Except as provided in Subsection (3), a public agency may not establish a dispatch center or a public safety answering point after January 1, 2017.

(3) (a) A public agency that operates a public safety answering point established before January 1, 2017, may:

- (i) continue to operate the public safety answering point; or
- (ii) physically consolidate the public safety answering point with another public safety answering point operated by another contiguous public agency or consolidate with a non-contiguous county in accordance with Subsection (1)(a)(iv).

(b) A county may establish a public safety answering point on or after January 1, 2017, if no public safety answering point exists in the county.

(4) A public agency may, in order to provide funding for operating a public safety answering point:

- (a) seek funds from the federal or state government;
- (b) seek funds appropriated by local governmental taxing authorities to fund a public safety agency; or
- (c) seek gifts, donations, or grants from a private person.

(5) (a) Each dispatch center in the state shall enter into an interlocal agreement with the governing authority of a public safety answering point that serves the county ~~[where]~~ for which the dispatch center ~~[is located that provides for:]~~ provides dispatch services.

(b) The agreement listed in Subsection (5)(a) shall provide for:

~~(a)~~ (i) functional consolidation of the dispatch center with the public safety answering point that allows for dispatching to occur without the caller being transferred; and

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~~[(b)]~~ (ii) a plan for the public safety answering point to provide 911 emergency service to the geographic area served by the dispatch center that meets the requirements of Section 63H-7a-304.5.

(6) (a) No public entity may cause or allow a 911 or emergency call box communication to be redirected to any network other than to the 911 emergency service network.

(b) Each public entity shall comply with Subsection (6)(a) on or before July 1, 2019, and thereafter.

(7) A special service district that operates a public safety answering point or a dispatch center:

(a) shall administer the public safety answering point or dispatch center in accordance with Title 17D, Chapter 1, Special Service District Act; and

(b) may raise funds, borrow money, or incur indebtedness for the purpose of maintaining the public safety answering point or the dispatch center in accordance with:

(i) Section 17D-1-105; and

(ii) Section 17D-1-103.

(8) ~~[No later than January 1, 2021, a]~~ A public safety answering point and dispatch center shall adopt the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the Utah Communications Authority board under Subsection 63H-7a-204(17).

Section ~~67~~7. Section **69-2-203** is amended to read:

69-2-203. Audit of public safety answering points within a county -- Reports -- Consequence of failure to comply.

(1) A county that by June 30, 2024₂, has not achieved a transfer rate, as defined in Section 69-2-204, of 2% or less shall:

(a) utilize a qualified third party to conduct an audit of each public safety answering point within the county; and

(b) require the audit to be completed no later than January 1, 2025.

(2) The audit described in Subsection (1) shall evaluate:

(a) how best to provide the emergency services within the county;

(b) what needs to happen for the PSAPs within the county to achieve a transfer rate, as defined in Section 69-2-204, of 2% or less; ~~[and]~~

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(c) whether the county could provide more cost efficient emergency service or improve public safety by establishing a single public safety answering point for the county[:]; and

(d) the extent to which the dispatch center's policies, procedures, or interlocal agreements cause a PSAP to experience difficulty in meeting the requirements of Section 63H-7a-304.5.

(3) (a) Each public safety answering point shall participate and cooperate in the audit described in Subsection (1).

(b) A public safety answering point that fails to participate and cooperate in the audit as described in Subsection (1) is ineligible for funding or services provided by the Unified Statewide 911 Emergency Services Account described in Section 63H-7a-304.

(4) No later than February 28, 2025, a county required to have an audit conducted under Subsection (1) shall submit to the Utah Communications Authority:

(a) a copy of the audit report; and

(b) a written plan of how and when the county will implement the audit recommendations.

(5) A PSAP in a county that fails to comply with the requirements of this section does not qualify for a distribution of funds under Section 63H-7a-304.5 for the entire calendar year in which the PSAP does not qualify.

Section ~~77~~8. Section **69-2-204** is amended to read:

69-2-204. Public safety answering point 911 call transfer rate requirements.

(1) As used in this section:

(a) "Fiscal year" means the period from July 1 of one year to June 30 of the following year.

(b) (i) "Transfer rate" means the percentage of 911 calls that are:

~~(+)~~ (A) received by a public safety answering point during a fiscal year; and

~~(+)~~ (B) transferred to another location in the state.

(ii) "Transfer rate" does not include transfers from a public safety answering point to 988 services or poison control.

(2) Subject to Subsection (3), a public safety answering point shall maintain a transfer rate that is no more than 2%.

(3) A public safety answering point with a transfer rate for the fiscal year ending June

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30, 2020, that is greater than 2% shall:

(a) for the fiscal year ending June 30, 2021, reduce the public safety answering point's transfer rate to at least 5% less than the transfer rate for the fiscal year ending June 30, 2020;

(b) for the fiscal year ending June 30, 2022, reduce the public safety answering point's transfer rate:

(i) to at least 15% less than the transfer rate for the fiscal year ending June 30, 2020; or

(ii) to at least 10% less than the transfer rate for the fiscal year ending June 30, 2021;

and

(c) for the fiscal year ending June 30, 2023, reduce the public safety answering point's transfer rate to no more than 5%.