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911 AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies code provisions regarding 911 emergency communications and uses of the 911 surcharge.

Highlighted Provisions:

This bill:

- ▶ provides definitions of primary and secondary public safety answering points; and
- ▶ provides additional uses for the 911 surcharge funds.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-603, as last amended by Laws of Utah 2007, Chapter 241

69-2-2, as last amended by Laws of Utah 2002, Chapter 320

69-2-5, as last amended by Laws of Utah 2009, Chapter 203

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

Section 1. Section **53-10-603** is amended to read:

53-10-603. Statewide Unified E-911 Emergency Service Fund -- Fund uses.



28 (1) There is created a restricted account in the General Fund entitled the "Statewide
29 Unified E-911 Emergency Service Fund," or "fund" consisting of:

- 30 (a) proceeds from the fee imposed in Section 69-2-5.6;
- 31 (b) money appropriated or otherwise made available by the Legislature; and
- 32 (c) contributions of money, property, or equipment from federal agencies, political
33 subdivisions of the state, persons, or corporations.

34 (2) The monies in this fund shall be used exclusively for the following statewide public
35 purposes:

- 36 (a) enhancing public safety as provided in this chapter;
- 37 (b) providing a statewide, unified, wireless E-911 service available to public [~~service~~
38 safety answering points; and
- 39 (c) providing reimbursement to providers for certain costs associated with Phase II
40 wireless E-911 service.

41 Section 2. Section **69-2-2** is amended to read:

42 **69-2-2. Definitions.**

43 As used in this chapter:

44 (1) "911 emergency telephone service" means a communication system which provides
45 citizens with rapid direct access to public emergency operation centers by dialing the telephone
46 number "911" with the objective of reducing the response time to situations requiring law
47 enforcement, fire, medical, rescue, and other emergency services.

48 (2) "Local exchange service" means the provision of public telecommunications
49 services by a wireline common carrier to customers within a geographic area encompassing one
50 or more local communities as described in the carrier's service territory maps, tariffs, price
51 lists, or rate schedules filed with and approved by the Public Service Commission.

52 (3) "Local exchange service switched access line" means the transmission facility and
53 local switching equipment used by a wireline common carrier to connect a customer location to
54 a carrier's local exchange switching network for providing two-way interactive voice, or voice
55 capable, services.

56 (4) "Mobile telecommunications service" is as defined in Section 54-8b-2.

57 (5) "Primary public safety answering point" means a PSAP to which 911 calls are first
58 routed from the 911 control office, and includes a selective router or 911 tandem.

59 ~~[(5)]~~ (6) "Public agency" means any county, city, town, special service district, or
60 public authority located within the state which provides or has authority to provide fire
61 fighting, law enforcement, ambulance, medical, or other emergency services.

62 ~~[(6)]~~ (7) "Public safety agency" means a functional division of a public agency which
63 provides fire fighting, law enforcement, medical, or other emergency services.

64 (8) "Public safety answering point" or "PSAP" means a facility that:

65 (a) is equipped and staffed under the authority of a political subdivision; and

66 (b) receives 911 calls, other calls for emergency services, and asynchronous event
67 notifications for a defined geographic area.

68 ~~[(7)]~~ (9) "Radio communications access line" means the radio equipment and assigned
69 customer identification number used to connect a mobile or fixed radio customer in Utah to a
70 radio communication service provider's network for two-way interactive voice, or voice
71 capable, services.

72 ~~[(8)]~~ (10) "Radio communications service" means a public telecommunications service
73 providing the capability of two-way interactive telecommunications between mobile and fixed
74 radio customers, and between mobile or fixed radio customers and the local exchange service
75 network customers of a wireline common carrier. Radio communications service providers
76 include corporations, persons or entities offering cellular telephone service, enhanced
77 specialized mobile radio service, rural radio service, radio common carrier services, personal
78 communications services, and any equivalent wireless public telecommunications service, as
79 defined in 47 CFR, parts 20, 21, 22, 24, and 90.

80 (11) "Secondary public safety answering point" means a PSAP that receives 911 calls
81 only as a result of a transfer from a primary PSAP.

82 ~~[(9)]~~ (12) "Wireline common carrier" means a public telecommunications service
83 provider that primarily uses metallic or nonmetallic cables and wires for connecting customers
84 to its local exchange service networks.

85 Section 3. Section **69-2-5** is amended to read:

86 **69-2-5. Funding for 911 emergency telecommunications service.**

87 (1) In providing funding of 911 emergency telecommunications service, any public
88 agency establishing a 911 emergency telecommunications service may:

89 (a) seek assistance from the federal or state government, to the extent constitutionally

90 permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or
91 indirectly;

92 (b) seek funds appropriated by local governmental taxing authorities for the funding of
93 public safety agencies; and

94 (c) seek gifts, donations, or grants from individuals, corporations, or other private
95 entities.

96 (2) For purposes of providing funding of 911 emergency telecommunications service,
97 special service districts may raise funds as provided in Section 17D-1-105 and may borrow
98 money and incur indebtedness as provided in Section 17D-1-103.

99 (3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of
100 this Subsection (3) a county, city, or town within which 911 emergency telecommunications
101 service is provided may levy monthly an emergency services telecommunications charge on:

102 (i) each local exchange service switched access line within the boundaries of the
103 county, city, or town;

104 (ii) each revenue producing radio communications access line with a billing address
105 within the boundaries of the county, city, or town; and

106 (iii) any other service, including voice over Internet protocol, provided to a user within
107 the boundaries of the county, city, or town that allows the user to make calls to and receive
108 calls from the public switched telecommunications network, including commercial mobile
109 radio service networks.

110 (b) Notwithstanding Subsection (3)(a), an access line provided for public coin
111 telecommunications service is exempt from emergency telecommunications charges.

112 (c) The amount of the charge levied under this section may not exceed:

113 (i) 61 cents per month for each local exchange service switched access line;

114 (ii) 61 cents per month for each radio communications access line; and

115 (iii) 61 cents per month for each service under Subsection (3)(a)(iii).

116 (d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as
117 provided in Section 59-12-102 or 59-12-215:

118 (A) "mobile telecommunications service";

119 (B) " place of primary use";

120 (C) "service address"; and

121 (D) "telecommunications service."
122 (ii) An access line described in Subsection (3)(a) is considered to be within the
123 boundaries of a county, city, or town if the telecommunications services provided over the
124 access line are located within the county, city, or town:
125 (A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax
126 Act; and
127 (B) determined in accordance with Section 59-12-215.
128 (iii) The rate imposed on an access line under this section shall be determined in
129 accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection
130 (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county,
131 city, or town in which is located:
132 (A) for a telecommunications service, the purchaser's service address; or
133 (B) for mobile telecommunications service, the purchaser's place of primary use.
134 (iv) The rate imposed on an access line under this section shall be the lower of:
135 (A) the rate imposed by the county, city, or town in which the access line is located
136 under Subsection (3)(d)(ii); or
137 (B) the rate imposed by the county, city, or town in which it is located:
138 (I) for telecommunications service, the purchaser's service address; or
139 (II) for mobile telecommunications service, the purchaser's place of primary use.
140 (e) (i) A county, city, or town shall notify the Public Service Commission of the intent
141 to levy the charge under this Subsection (3) at least 30 days before the effective date of the
142 charge being levied.
143 (ii) For purposes of this Subsection (3)(e):
144 (A) "Annexation" means an annexation to:
145 (I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or
146 (II) a county under Title 17, Chapter 2, [~~Annexation to County~~] County Consolidations
147 and Annexations.
148 (B) "Annexing area" means an area that is annexed into a county, city, or town.
149 (iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if on or after July 1,
150 2003, a county, city, or town enacts or repeals a charge or changes the amount of the charge
151 under this section, the enactment, repeal, or change shall take effect:

152 (I) on the first day of a calendar quarter; and
153 (II) after a 90-day period beginning on the date the State Tax Commission receives
154 notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.
155 (B) The notice described in Subsection (3)(e)(iii)(A) shall state:
156 (I) that the county, city, or town will enact or repeal a charge or change the amount of
157 the charge under this section;
158 (II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);
159 (III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and
160 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
161 described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.
162 (C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge
163 increase under this section shall take effect on the first day of the first billing period:
164 (I) that begins after the effective date of the enactment of the charge or the charge
165 increase; and
166 (II) if the billing period for the charge begins before the effective date of the enactment
167 of the charge or the charge increase imposed under this section.
168 (D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge
169 decrease under this section shall take effect on the first day of the last billing period:
170 (I) that began before the effective date of the repeal of the charge or the charge
171 decrease; and
172 (II) if the billing period for the charge begins before the effective date of the repeal of
173 the charge or the charge decrease imposed under this section.
174 (iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if for an annexation that
175 occurs on or after July 1, 2003, the annexation will result in the enactment, repeal, or a change
176 in the amount of a charge imposed under this section for an annexing area, the enactment,
177 repeal, or change shall take effect:
178 (I) on the first day of a calendar quarter; and
179 (II) after a 90-day period beginning on the date the State Tax Commission receives
180 notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that
181 annexes the annexing area.
182 (B) The notice described in Subsection (3)(e)(iv)(A) shall state:

183 (I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an
184 enactment, repeal, or a change in the charge being imposed under this section for the annexing
185 area;

186 (II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

187 (III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

188 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
189 described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

190 (C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge
191 increase under this section shall take effect on the first day of the first billing period:

192 (I) that begins after the effective date of the enactment of the charge or the charge
193 increase; and

194 (II) if the billing period for the charge begins before the effective date of the enactment
195 of the charge or the charge increase imposed under this section.

196 (D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge
197 decrease under this section shall take effect on the first day of the last billing period:

198 (I) that began before the effective date of the repeal of the charge or the charge
199 decrease; and

200 (II) if the billing period for the charge begins before the effective date of the repeal of
201 the charge or the charge decrease imposed under this section.

202 (f) Subject to Subsection (3)(g), an emergency services telecommunications charge
203 levied under this section shall:

204 (i) be billed and collected by the person that provides the:

205 (A) local exchange service switched access line services; or

206 (B) radio communications access line services; and

207 (ii) except for costs retained under Subsection (3)(h), remitted to the State Tax
208 Commission.

209 (g) An emergency services telecommunications charge on a mobile
210 telecommunications service may be levied, billed, and collected only to the extent permitted by
211 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

212 (h) The person that bills and collects the charges levied under Subsection (3)(f) may:

213 (i) bill the charge imposed by this section in combination with the charge levied under

214 Section 69-2-5.6 as one line item charge; and

215 (ii) retain an amount not to exceed 1.5% of the levy collected under this section as
216 reimbursement for the cost of billing, collecting, and remitting the levy.

217 (i) The State Tax Commission shall:

218 (i) collect, enforce, and administer the charge imposed under this Subsection (3) using
219 the same procedures used in the administration, collection, and enforcement of the state sales
220 and use taxes under:

221 (A) Title 59, Chapter 1, General Taxation Policies; and

222 (B) Title 59, Chapter 12, Part 1, Tax Collection, except for:

223 (I) Section 59-12-104;

224 (II) Section 59-12-104.1;

225 (III) Section 59-12-104.2;

226 (IV) Section 59-12-107.1; and

227 (V) Section 59-12-123;

228 (ii) transmit monies collected under this Subsection (3):

229 (A) monthly; and

230 (B) by electronic funds transfer by the commission to the county, city, or town that
231 imposes the charge; and

232 (iii) charge the county, city, or town for the State Tax Commission's services under this
233 Subsection (3) in an amount:

234 (A) sufficient to reimburse the State Tax Commission for the cost to the State Tax
235 Commission in rendering the services; and

236 (B) that may not exceed an amount equal to 1.5% of the charges imposed under this
237 Subsection (3).

238 (4) (a) Any money received by a public agency for the provision of 911 emergency
239 telecommunications service shall be deposited in a special emergency telecommunications
240 service fund.

241 (b) (i) Except as provided in Subsection (5)(b), the money in the emergency
242 telecommunications service fund shall be expended by the primary public [agency] safety
243 answering point serving the public agency's jurisdiction to pay the costs of:

244 (A) establishing, installing, maintaining, and operating a 911 emergency

245 telecommunications system [~~or~~];

246 (B) receiving and processing emergency calls from the 911 system or other calls or
 247 requests for emergency services;

248 (C) integrating a 911 system into an established public safety dispatch center, including
 249 contracting with the providers of local exchange service, radio communications service, and
 250 vendors of appropriate terminal equipment as necessary to implement the 911 emergency
 251 telecommunications service; or

252 (D) indirect costs associated with the maintaining and operating of a 911 emergency
 253 telecommunications system.

254 (ii) Revenues derived for the funding of 911 emergency telecommunications service
 255 may [~~only~~] be used [~~for that portion of costs related to the operation of the 911 emergency~~
 256 ~~telecommunications system~~] by the primary public safety answering point for personnel costs
 257 associated with receiving and processing calls and deploying emergency response resources
 258 when [~~such a~~] the system is integrated with any public safety dispatch system.

259 (c) Any unexpended money in the emergency telecommunications service fund at the
 260 end of a fiscal year does not lapse, and must be carried forward to be used for the purposes
 261 described in this section.

262 (5) (a) Revenue received by a local entity from an increase in the levy imposed under
 263 Subsection (3) after the 2004 Annual General Session[~~, or from grants from the Utah 911~~
 264 ~~Committee pursuant to Section 53-10-605~~]:

265 (i) may be used by the primary public safety answering point for the purposes under
 266 Subsection (4)(b); and

267 [~~(i)~~] (ii) shall be deposited into the special emergency telecommunications service fund
 268 described in Subsection (4)(a)[~~; and~~].

269 (b) Revenue received by a local entity from grants from the Utah 911 Committee under
 270 Section 53-10-605:

271 (i) shall be deposited into the special emergency telecommunications service fund
 272 under Subsection (4)(a); and

273 (ii) shall only be used for that portion of the costs related to the development and
 274 operation of wireless and land-based enhanced 911 emergency telecommunications service and
 275 the implementation of wireless E-911 Phase I and Phase II services as provided in Subsection

276 (5)(~~(b)~~)(c).
277 (~~(b)~~) (c) The costs allowed under Subsection (5)(~~(a)~~)(~~(b)~~)(ii) [~~shall~~] include the primary
278 public [~~service~~] safety answering point's or local entity's costs for:
279 (i) acquisition, upgrade, modification, maintenance, and operation of public service
280 answering point equipment capable of receiving E-911 information;
281 (ii) database development, operation, and maintenance; and
282 (iii) personnel costs associated with establishing, installing, maintaining, and operating
283 wireless E-911 Phase I and Phase II services, including training emergency service personnel
284 regarding receipt and use of E-911 wireless service information and educating consumers
285 regarding the appropriate and responsible use of E-911 wireless service.
286 (6) A local entity that increases the levy it imposes under Subsection (3)(c) after the
287 2004 Annual General Session shall increase the levy to the maximum amount permitted by
288 Subsection (3)(c).

Legislative Review Note
as of 1-25-10 6:32 AM

Office of Legislative Research and General Counsel

H.B. 173 - 911 Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. Local government entities may benefit from additional restricted fund uses authorized by this bill.
