

## LEGISLATIVE BILL 993

Approved by the Governor April 04, 2018

Introduced by Friesen, 34; Brewer, 43; Wayne, 13; Geist, 25.

A BILL FOR AN ACT relating to 911 service; to amend sections 86-442, 86-459, 86-462, 86-465, 86-466, and 86-904, Reissue Revised Statutes of Nebraska, and sections 86-458, 86-1001, 86-1004, 86-1025, 86-1026, 86-1027, and 86-1028, Revised Statutes Cumulative Supplement, 2016; to define a term; to create and provide duties for the 911 Service System Advisory Committee; to change and provide duties for the Public Service Commission; to change provisions relating to use of the 911 Service System Fund; to provide authority for access to federal and other funds; to provide immunity to certain service providers and the Public Service Commission as prescribed; to eliminate a fund, a study, and a termination date; to harmonize provisions; to repeal the original sections; to outright repeal sections 86-443.01 and 86-471, Reissue Revised Statutes of Nebraska, section 86-1030, Revised Statutes Cumulative Supplement, 2016, and section 86-463, Revised Statutes Supplement, 2017; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 86-442, Reissue Revised Statutes of Nebraska, is amended to read:

86-442 Sections 86-442 to ~~86-470~~ ~~86-471~~ shall be known and may be cited as the Enhanced Wireless 911 Services Act.

Sec. 2. Section 86-458, Revised Statutes Cumulative Supplement, 2016, is amended to read:

86-458 The commission shall hold a public hearing annually to determine the amount of revenue necessary to carry out the Enhanced Wireless 911 Services Act and the 911 Service System Act. After the hearing, the commission shall determine the amount of money to be deposited in the ~~Enhanced Wireless 911 Service System~~ Fund for the following year and shall set the surcharge subject to the limitation in section 86-457.

Sec. 3. Section 86-459, Reissue Revised Statutes of Nebraska, is amended to read:

86-459 (1) Each wireless carrier shall remit monthly to the commission the amounts collected pursuant to section 86-457 together with any forms required by the commission no later than sixty days after the last day of the month. The commission shall remit the funds to the State Treasurer for credit to the ~~Enhanced Wireless 911 Service System~~ Fund.

(2) As the commission may require, each wireless carrier, except a wireless carrier whose users have no 911 service, shall report to the commission on a quarterly basis for each county in a manner prescribed by the commission the following information: (a) The number of telephone numbers or functional equivalents served; (b) the number of telephone numbers or functional equivalents from which it has collected surcharge revenue; (c) the number of wireless towers by county; and (d) the current implementation status of enhanced wireless 911 service in each county served by that wireless carrier.

(3) The wireless carrier shall maintain all records required by this section, records of the amounts collected pursuant to section 86-457, and remittance records for a period of five years after the date of remittance to the fund. The commission may require an audit of any wireless carrier's books and records concerning the collection and remittance of any amounts collected pursuant to the Enhanced Wireless 911 Services Act. The costs of any audit required by the commission shall, at the commission's discretion, be paid by the audited wireless carrier. A wireless carrier shall not be required to pay for more than one remittance audit or more than one collection audit per year, unless the commission orders subsequent audits for good cause.

(4) Each wireless carrier shall comply with all commission rules and regulations regarding enhanced wireless 911 service.

(5) Each wireless carrier shall comply with this section regardless of whether the wireless carrier receives reimbursement from the fund. Wireless carriers failing to comply with this section may be administratively fined by the commission pursuant to section 75-156.

Sec. 4. Section 86-462, Reissue Revised Statutes of Nebraska, is amended to read:

86-462 (1) The advisory board shall make recommendations to the commission regarding the implementation of the Enhanced Wireless 911 Services Act, including:

(a) The allocation of funds from the ~~Enhanced Wireless 911 Service System~~ Fund as specified in section 86-465;

(b) Rules and regulations necessary to carry out the act;

(c) Any adjustments in the surcharge amount to recommend to the Legislature; and

(d) The resolution of any disputes between public safety answering points and wireless carriers.

(2) The commission may approve and implement any recommendations of the

advisory board.

Sec. 5. Section 86-465, Reissue Revised Statutes of Nebraska, is amended to read:

86-465 (1) The commission shall, in consultation with the advisory board:

(a) Determine the costs to implement wireless automatic location identification;

(b) Determine the level of funding needed to trigger disbursements pursuant to the Enhanced Wireless 911 Services Act;

(c) Determine the percentage of the 911 Service System Fund fund to be allocated to each funding purpose, including the percentage that shall be designated for funding 911 service under subdivision (2)(c) of this section;

(d) Determine how the funds distributed under subdivisions (2)(a) and (2)(c) of this section are to be allocated among the wireless carriers and the public safety answering points; and

(e) Establish a mechanism for determining the level of funding available to each public safety answering point and wireless carrier for costs determined to be eligible by the commission under subsection (2) of this section.

(2) The commission shall, in consultation with the advisory board, establish eligibility standards and criteria for ~~fund disbursement~~ applications for disbursements from the 911 Service System Fund and standards and criteria concerning the level of fund disbursement for each application. In establishing such criteria and standards, the following purposes may be eligible for funding:

(a) Costs incurred or to be incurred by wireless carriers to implement enhanced wireless 911 service pursuant to a service agreement with a public safety answering point or pursuant to a request for service from a public safety answering point. Such costs may include, but not be limited to, the portion of the costs for new equipment used for providing enhanced wireless 911 service, costs to lease another vendor's equipment or services to provide enhanced wireless 911 service, costs to create or maintain any data base or data base elements used solely for enhanced wireless 911 service, and other costs of establishing enhanced wireless 911 service. The portion of the costs of equipment or services used in the wireless carrier's main infrastructure resulting in revenue to the wireless carrier is not eligible for funding;

(b) Costs incurred or to be incurred by public safety answering points to implement enhanced wireless 911 service may include, but not be limited to, purchases of new equipment, costs of upgrades, modification and personnel training used solely to process the data elements of enhanced wireless 911 service, and maintenance costs and license fees for new equipment;

(c) Costs incurred or to be incurred by public safety answering points for the purchase, installation, maintenance, and operation of telecommunications equipment and telecommunications services required for the provision of enhanced wireless 911 service; and

~~(d) Costs associated with the conduct of a study regarding next generation 911 as required by section 86-471, including, but not limited to, costs related to contracting with an independent third party for purposes of conducting the study; and~~

~~(d)~~ (e) Expenses incurred by members of the advisory board while performing duties required by the Enhanced Wireless 911 Services Act act.

(3) A wireless carrier receiving funds from the Enhanced Wireless 911 Service System Fund shall not directly assess any of the costs associated with the implementation or provision of enhanced wireless 911 service to any public safety answering point, county, or municipality without the express consent of the commission.

(4) The commission shall have any powers necessary to carry out the intent and purposes of the Enhanced Wireless 911 Services Act act.

Sec. 6. Section 86-466, Reissue Revised Statutes of Nebraska, is amended to read:

86-466 (1) A public safety answering point and wireless carrier may be compensated for costs determined by the commission to be eligible for funding. The level of funding available to each public safety answering point and wireless carrier for eligible cost compensation may be limited based upon the mechanism established by the commission pursuant to section 86-465. The commission is not required to provide compensation for costs to more than one public safety answering point in any county. A public safety answering point or wireless carrier may apply for disbursement from the Enhanced Wireless 911 Service System Fund by submitting a written application to the commission. The commission shall receive and review applications, including supporting documentation. The commission shall notify each applicant as to the commission's approval or disapproval of the application.

(2) Each entity that receives disbursements from the 911 Service System Fund fund shall make a full accounting of the money in a manner and form prescribed by the commission.

Sec. 7. Section 86-904, Reissue Revised Statutes of Nebraska, is amended to read:

86-904 (1) Sellers shall remit collected prepaid wireless surcharges to the Department of Revenue at the times and in the manner provided in the Nebraska Revenue Act of 1967 with respect to sales tax. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to sales tax.

(2) A seller shall be permitted to deduct and retain three percent of prepaid wireless surcharges that are collected by the seller from consumers.

(3) The audit and appeal procedures applicable to sales tax under the

Nebraska Revenue Act of 1967 shall apply to prepaid wireless surcharges.

(4) The Department of Revenue shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions for sales tax purposes.

(5) After deducting an amount, not to exceed two percent of charges, to be retained by the department to reimburse its direct costs of administering the collection and remittance of prepaid wireless surcharges, the department shall remit all collected prepaid wireless surcharges to the State Treasurer for credit to the ~~Enhanced Wireless 911 Service System Fund~~ and the Nebraska Telecommunications Relay System Fund in the proportions that the respective corresponding components of the prepaid wireless surcharge under subsection (2) of section 86-903 bear to the total prepaid wireless surcharge.

Sec. 8. Section 86-1001, Revised Statutes Cumulative Supplement, 2016, is amended to read:

86-1001 Sections 86-1001 to 86-1029 and sections 10, 11, 14, 15, and 16 of ~~this act 86-1030~~ shall be known and may be cited as the 911 Service System Act.

Sec. 9. Section 86-1004, Revised Statutes Cumulative Supplement, 2016, is amended to read:

86-1004 For purposes of the 911 Service System Act, the definitions found in sections 86-1005 to 86-1024 and section 10 of this act apply.

Sec. 10. Committee means the 911 Service System Advisory Committee.

Sec. 11. (1) The 911 Service System Advisory Committee is created. The committee shall advise the commission concerning the implementation, coordination, operation, management, maintenance, and funding of the 911 service system and provide input on technical training and quality assurance. The state 911 director and the Chief Information Officer or his or her designee shall serve as ex officio members. The committee shall include the following individuals appointed by the commission:

(a) Four representatives of public safety agencies within the state, including an emergency manager, a member of a law enforcement agency, a member of a fire department, and a member of an emergency medical service as defined in section 38-1207;

(b) Two county officials or employees;

(c) Two municipal officials or employees;

(d) Two representatives of the telecommunications industry;

(e) Two managers of public safety answering points, one of whom is employed by a county sheriff and one of whom is not employed by a county sheriff;

(f) One representative of the Nebraska Association of County Officials;  
and

(g) One representative of the League of Nebraska Municipalities.

(2) Of the fourteen appointed members of the committee described in subdivisions (1)(a) through (g) of this section, at least four members shall be appointed from each of the three congressional districts. The appointed members of the committee shall serve for terms of three years. A vacancy shall be filled for the remainder of the unexpired term. The committee shall annually select a chairperson and vice-chairperson and meet as often as necessary to carry out its duties. Members of the committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The committee shall make any recommendations to the commission regarding the exercise of the commission's duties administering the 911 service system pursuant to section 86-1025, including recommending the adoption and promulgation of any rules and regulations necessary to carry out the purposes of the 911 Service System Act or the introduction of any legislation. The commission may consider and implement any such recommendations.

Sec. 12. Section 86-1025, Revised Statutes Cumulative Supplement, 2016, is amended to read:

86-1025 The commission shall:

(1) Serve as the statewide coordinating authority for the implementation of the 911 service system;

(2) Be responsible for statewide planning, implementation, coordination, funding assistance, deployment, and management and maintenance of the 911 service system to ensure that coordinated 911 service is provided to all residents of the state at a consistent level of service in a cost-effective manner;

(3) Be responsible for establishing mandatory and uniform technical and training standards applicable to public safety answering points and adopting and promulgating rules and regulations applicable to public safety answering points for quality assurance standards; ~~and~~

~~(4) Be responsible for consulting with and seeking advice and assistance from stakeholders, including:~~

~~(a) Public safety answering points;~~

~~(b) Public safety agencies;~~

~~(c) Originating service providers, including at least one representative from each of the following: A wireline local exchange service provider, a wireless provider, and an interconnected voice over Internet protocol service provider;~~

~~(d) Municipal and county officials; and~~

~~(e) The Chief Information Officer.~~

(4) Appoint the members of the committee and act on the committee's recommendations as provided in section 11 of this act; and

(5)(a) Determine how to allocate the 911 Service System Fund in order to

facilitate the planning, implementation, coordination, operation, management, and maintenance of the 911 service system;

(b) Create a mechanism for determining the level of funding available to or for the benefit of local governing bodies, public safety answering points, and third-party service or infrastructure providers for costs determined to be eligible by the commission under subdivision (5)(c) of this section; and

(c) Establish standards and criteria concerning disbursements from the 911 Service System Fund for the planning, implementation, coordination, operation, management, and maintenance of the 911 service system. In establishing such standards and criteria, the following may be eligible for funding:

(i) Costs incurred by or on behalf of governing bodies or public safety answering points to provide 911 service, including, but not limited to, (A) acquisition of new equipment and related maintenance costs and license fees, (B) upgrades and modifications, (C) delivering next-generation 911 core services, and (D) training personnel used to provide 911 services; and

(ii) Costs incurred by or on behalf of governing bodies or public safety answering points for the acquisition, installation, maintenance, and operation of telecommunications equipment and telecommunications service required for the provision of 911 service.

Sec. 13. Section 86-1026, Revised Statutes Cumulative Supplement, 2016, is amended to read:

86-1026 The commission shall appoint a state 911 director to manage the department established within the commission for the 911 service system. The commission shall ensure that the department has all necessary staffing and resources. The commission may retain contracted experts or consultants who may be required for the administration of the 911 Service System Act.—~~The commission and the state 911 director shall establish an advisory committee to provide input on technical training, quality assurance, funding, and operation and maintenance of the 911 service system. Advisory committee members shall be approved by the commission.~~

Sec. 14. The commission may apply for any federal or other funds available for next-generation 911 service and may distribute such federal funds consistent with federal law and other funds consistent with the directives, purposes, or conditions of such other funds. Except for intentional acts, the commission shall be immune from liability or the payment of damages in applying for any such federal funds. The state 911 director shall be the designated single point of contact for any federal 911 grant program.

Sec. 15. Any person involved in the provision of next-generation 911 service who: (1) Receives, develops, collects, or processes information for any 911 data base; (2) provides local exchange, interexchange, or transport service in connection with any next-generation 911 service; (3) relays, transfers, operates, maintains, or provides next-generation 911 service or systems capabilities; or (4) provides next-generation 911 communications service for emergency service providers shall, except for failure to use reasonable care or for intentional acts, be immune from liability or the payment of damages in the performance of installing, maintaining, or providing next-generation 911 service.

Sec. 16. The commission shall adopt and promulgate rules and regulations necessary to carry out the 911 Service System Act.

Sec. 17. Section 86-1027, Revised Statutes Cumulative Supplement, 2016, is amended to read:

86-1027 (1) The commission and the state 911 director shall develop and prepare a plan for a 911 service system, to be approved by the commission, and to be implemented by the commission and the state 911 director on or after July 1, 2018. The commission shall hold at least two public hearings on the plan: One hearing at least ninety days prior to the adoption of the plan; and one hearing at least thirty days prior to the adoption of the plan. The commission shall present the adopted plan to the Appropriations Committee of the Legislature and the Transportation and Telecommunications Committee of the Legislature no later than December 1, 2017. The state 911 director, with the approval of the commission, shall prepare and provide a report to the Appropriations Committee and the Transportation and Telecommunications Committee on the progress of the development of the plan no later than February 1, 2017. The report shall be submitted electronically.

(2) The plan adopted by the commission shall, at a minimum, detail the following:

(a) The costs associated with the implementation and estimated ongoing operation and maintenance of the 911 service system. The discussion of costs shall detail which costs the commission determines should be paid from the ~~Enhanced Wireless 911 Fund~~ and the 911 Service System Fund, which costs would be the obligation of local governing bodies, and how the proposed costs represent a cost-effective plan;

(b) Recommendations to the Legislature for cost recovery for the implementation, operation, and maintenance of the 911 service system;

(c) The commission's proposal for carrying out its role as coordinator of the 911 service system;

(d) A recommendation of the number of public safety answering points that should be maintained in the state that are capable of next-generation 911 service; and

(e) Recommendations for any additional legislation required to implement the 911 service system.

Sec. 18. Section 86-1028, Revised Statutes Cumulative Supplement, 2016, is amended to read:

86-1028 (1) The 911 Service System Fund is created. The fund shall consist of surcharges collected pursuant to sections 86-457 and 86-904, money transferred from the Enhanced Wireless 911 Fund, any federal funds received for implementation and development of 911 service, and any other money designated for credit to the 911 Service System Fund. The fund shall be used for the costs of administering the fund, for the purposes specified in section 86-465 unless otherwise directed by federal law with respect to any federal funds, and for the purposes specified in the 911 Service System Act. The costs of administering the 911 Service System Fund shall be kept to a minimum.

(2) The fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any fiscal year or biennium. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, and for the period July 1, 2017, through June 30, 2019, any interest earned by the fund shall be credited to the General Fund.

(3) Money in the 911 Service System Fund may be used to pay for costs incurred by or on behalf of governing bodies or public safety answering points to provide 911 service that are determined by the commission to be eligible for funding. The commission is not required to provide funding from the 911 Service System Fund to more than one public safety answering point in any county. Each entity that receives disbursements from the fund under this subsection shall make a full accounting of the money in a manner and form prescribed by the commission.

(4) The State Treasurer shall transfer any money in the Enhanced Wireless 911 Fund on July 1, 2018, to the 911 Service System Fund.

Sec. 19. Original sections 86-442, 86-459, 86-462, 86-465, 86-466, and 86-904, Reissue Revised Statutes of Nebraska, and sections 86-458, 86-1001, 86-1004, 86-1025, 86-1026, 86-1027, and 86-1028, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 20. The following sections are outright repealed: Sections 86-443.01 and 86-471, Reissue Revised Statutes of Nebraska, section 86-1030, Revised Statutes Cumulative Supplement, 2016, and section 86-463, Revised Statutes Supplement, 2017.

Sec. 21. Since an emergency exists, this act takes effect when passed and approved according to law.