



ACT 12 OF 2015: 911 EMERGENCY COMMUNICATION SERVICES

HB 911, PN 1878

June 29, 2015

Scope

- The act, signed by Governor Wolf on June 29, constitutes a full rewrite of the 911 Public Safety Emergency Telephone Act
- The act parallels the former CCAP working drafts
- It includes comprehensive revision of governance mechanisms, accountability mechanisms, technology references, distribution of fees, and rate of fees
- It is intended to recognize that the commonwealth and counties need not just to maintain current systems, but to invest in the future response capabilities based on technologies as well as citizen and corporate expectations

Technology

- The act removes the three silos in existing law that treat wireline, wireless/prepaid wireless and VoIP as separate technologies for planning, funding, and audit purposes
- It accommodates and encourages adaptation to next generation technologies (e.g. text, video, social media) without boxing the statute in to specific delineations
- It allows adaptation to technologies not yet identified

Governance

- Counties retain the requirement to assure that there is 911 service throughout their jurisdictions
- Development, deployment, upgrade, maintenance, and operation of 911 systems remains a local responsibility, under local ownership and control
- PEMA gains strength as a planning, regulatory, approval, funding disbursement and oversight body, with the advice and counsel of the 911 Board
- A new 911 Board, replacing the existing advisory committees and composed of a cross section of professionally-competent state and local interests, along with members of the General Assembly, has planning, approval, funding disbursement, and funding accountability responsibilities, in a consultative capacity to PEMA
- The 911 Board has 19 members, including the PEMA director, PEMA's 911 director, the chairs and minority chairs of the House and Senate Veterans Affairs and Emergency Preparedness committees, the PSP, and county representatives including the mayor of Philadelphia, the Allegheny County executive, and four commissioners or home rule equivalents, one from 2A, one from 3rd or 4th, and two from 5th through 8th, along with six 911 directors drawn from the same classes of counties
- The Board also has 20 non-voting members, including the PUC, the state fire commissioner, and the Office of Administration, along with representatives from a variety of associations

including among others the PA Chiefs of Police, the FOP, each of the other local government associations, and communications provider associations.

Efficiencies and Reforms

- PEMA and the 911 Board are required to develop state-of-the-art standards for 911 systems
- Coordination of planning is improved among counties and concurrent with the state plan
- Incentives are provided for multi-county deployment as well as system efficiencies through technology upgrades and shared background services
- Specific planning requirements and funding set-aside are established to develop a shared broadband backbone for the system, which reduces requirements for county switches, improves operability, facilitates system backup and redundancies, and reduces system costs
- Funding distribution is changed from a de facto competitive grant basis to a formula basis, encouraging tighter planning and budgeting at the county level

Funding Generation

- The wireline, wireless, prepaid wireless, and VoIP subscriber-based funding system is maintained
- Current language on fee remittance is largely maintained, although it will all now be on a quarterly basis and all is remitted to the state
- The monthly subscriber rate, effective August 1, 2015, is set uniformly at \$1.65 (under prior law the fee was \$1.00 for wireless, prepaid wireless and VoIP, and between \$1.00 and \$1.50 for wireline dependent on class of county)
- The act relies on a four year sunset to spur legislative review of the rate and methodology; there is no COLA
- A separate requirement for PEMA and the 911 Board to study and make recommendations on system structure and funding opens the door for consideration of the broadband percentage-based fee system proposed by PEMA in its 2014 draft, the county-based fee system proposed in the Senate, or some other model

Funding Levy and Collection

- The statute is clarified in its applicability and manner of calculation relative to VoIP lines, including channelized DS-1 and comparable lines
- Calculation is made against the number of lines for which there is capacity for simultaneous outbound calls
- Stepped rates remain for large commercial accounts
- All fees except prepaid wireless are collected by the state treasurer; prepaid remains a Department of Revenue collection responsibility

Funding Distribution

- Rather than the current system (wireline funds directly to county of billing address; VoIP funds direct to county or channeled through PEMA based on billing address, wireless funds to PEMA for redistribution based on county costs determined through plan/grant submission) funds will all be channeled through the state and will be distributed quarterly, primarily on a formula basis

- Although funds flow through the state, all of the funds except a 2% PEMA administrative fee are ultimately disbursed to the counties
- Formula distribution gets away from the current de facto competitive grant and instead gives counties a defined amount that provides annual budget certainty
- The formula distribution concurrently serves as an incentive to manage within available dollars; counties spending above available amounts do so knowing that the difference comes from the county general fund
- Funds are restricted to expenditure on those costs that are reasonably necessary to enhance, operate, or maintain a 911 system, as defined by PEMA and the 911 Board; funds can be used for no other purpose than 911
- Prior statutory limitations on the use of the fund (personnel percentage, allowable uses) are removed, although PEMA has some threshold authority to set standards
- Funds are distributed with 80% to counties in formula distributions, up to 15% to competitive incentive grants for system improvements, consolidation and system efficiencies, and interconnectivity, a flat 3% uniformly divided among the counties (including the two city-based systems), and up to 2% to PEMA for 911 administration and support
- The formula for the 80% distribution is to be arithmetic and established by PEMA with the advice of the 911 Board, with regular periodic review
- The formula is to fairly and proportionately reflect county and regional 911 system needs and must consider and may include factors such as base level costs, population, call volume, and extenuating factors such as topography, population density, and special hazard exposures; at least 30% is to be distributed based on relative population
- PEMA and the 911 Board are given up to 18 months to develop the formula
- Until the permanent formula is developed, funds are distributed on a two-part interim formula; the first part is calculated at 106% of each PSAP's wireline and VoIP average receipts over the prior five years, and the second part distributes the remainder based on each county's relative historic expenditure reports averaged over the prior five years
- An anti-windfall provision stipulates that no PSAP will receive a disbursement in excess of actual annual costs; those costs include enhancement, operation, and maintenance in accordance with the state plan and can include amortization or depreciation of allowable capital costs and allocations to capital and operating reserves

Audits

- PEMA is given clear authority to audit any entity that contributes to, or receives monies from, the 911 fund, including performance audits
- Audit powers are expanded, including subpoena language that comports with federal authorizations for providers to release subscriber information
- County performance audits become biennial

"Kali's Law"

- Within six months of the effective date operators of shared residential MLTS serving residential customers are required to establish one distinctive ANI and ALI for each living unit

- Comparable addressing is required within six months by MLTS serving business locations
- Businesses providing MLTS service to a temporary residence (e.g. hotel) are required to provide location information
- New multiline system installs must provide direct 911 dialing without first dialing any numbers or being intercepted by a switchboard

Study

- PEMA and the 911 Board are given two years to develop and submit a report and recommendations on the impacts of current and anticipated technological and market changes on the provision of 911 communications service, including the structure and adequacy of the 911 surcharge and 911 fund
- It is anticipated that the study will include review and recommendations on the broadband percentage-based proposal offered in the 2014 PEMA draft as well as local funding options

Inventory

- PEMA, in consultation with the 911 Board, is to undertake a comprehensive inventory of county PSAPs' facilities, hardware, software, communication and other infrastructure, network capability, and services to determine stage of advancement toward NG911; the inventory is to be complete and reported to the General Assembly by March 31, 2016, and counties will have 45 days to respond to PEMA requests for information

Adoption

- The fee is state-levied, but counties are required to adopt resolutions to accept the funds

Transition

- The new authority for PEMA and the requirement to establish the 911 Board would take effect immediately
- The change in fee and most other pertinent parts of the statute take effect August 1, 2015, to give providers time to update billing systems
- A four-year sunset is included