

No. 1990-78

## AN ACT

SB 576

Providing for a Statewide emergency telephone number 911 system; providing for contributions from telephone subscribers; providing a penalty; and making a repeal.

The General Assembly declares it to be in the public interest to provide a toll-free number 911 for any individual within this Commonwealth to gain rapid, direct access to emergency aid. The number shall be provided with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue or other emergency service. It is the further intent of the General Assembly that authority and responsibility for the creation and implementation of a plan establishing, operating and maintaining adequate facilities for answering emergency calls and dispatching a proper response to the callers' needs shall be vested in the county government. Each county is encouraged to implement a 911 emergency communication system and to consider maximum integration of telecommunications facilities and capabilities within their planning in order to economize the costs, as well as to effect a more rapid response capability.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Public Safety Emergency Telephone Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“911 emergency communication system” or “911 system.” A system which permits a person dialing 911 by telephone to be connected to a public safety answering point, via normal telephone facilities, for the reporting of police, fire, medical or other emergency situations.

“Agency.” The Pennsylvania Emergency Management Agency.

“Commission.” The Pennsylvania Public Utility Commission.

“Contribution rate.” A fee assessed against a telephone subscriber for the nonrecurring costs, maintenance and operating costs of a 911 system. Counties of the first through second class A may impose a monthly contribution rate in an amount not to exceed \$1 per line on each local exchange access line. Counties of the third through fifth class may impose monthly contribution rates in an amount not to exceed \$1.25 per line on each local exchange access line. Counties of the sixth through eighth class may impose a monthly contribution rate in an amount not to exceed \$1.50 per line on each local exchange access line. The contribution rate may be used by counties for the

expenses of implementing, expanding or upgrading a 911 system. Expenses eligible for reimbursement through the contribution rate shall include telephone terminal equipment, trunk line service installation, network changes, building of initial data base and any other nonrecurring costs to establish a 911 system. The contribution rate may also be used to fund recurring costs pursuant to section 8(b). Expenses not eligible for reimbursement through the contribution rate shall include purchase of real estate, cosmetic remodeling, central office upgrades, hiring and training of dispatchers, mobile communications equipment, ambulances, fire engines or other emergency vehicles, utilities, taxes and other expenses as determined by the Department of Community Affairs.

“Council.” The Pennsylvania Emergency Management Council.

“County.” The term shall include a city of the first class coterminous with a county.

“County plan.” A document submitted by the county to the department, outlining its proposed 911 system, including a contribution rate.

“Department.” The Department of Community Affairs of the Commonwealth.

“Local exchange telephone service.” The provision of telephonic message transmission within an exchange, as such is defined and described in tariffs filed with and approved by the commission.

“Public agency.” The Commonwealth or a political subdivision, public authority, municipal authority or any organization located in whole or in part within this Commonwealth which provides or has the authority to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

“Public safety answering point” or “PSAP.” The first point at which calls for emergency assistance from individuals are answered, operated 24 hours a day.

“Telephone subscriber.” A person who contracts with a telephone company within this Commonwealth for local exchange telephone service, either residential or commercial. When the same person, business or organization has several telephone dial tone access lines, each dial tone access line shall constitute a separate subscription. For purposes of the contribution rate, the term shall not include pay stations owned or operated by a regulated public utility.

### Section 3. Telecommunications management.

(a) Powers and duties of department.—The department shall have the following powers and duties:

- (1) To adopt rules and regulations pursuant to this act: Provided, That the department shall have the power and authority to promulgate, adopt, publish and use guidelines for the implementation of this act for a period of one year immediately following the effective date of this section pending adoption of final rules and regulations. Guidelines proposed under the authority of this section shall be subject to review by the General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980

(P.L.950, No.164), known as the Commonwealth Attorneys Act, but shall not be subject to review pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(2) To establish guidelines and application procedures for the establishment of contribution rates.

(3) To receive, review and approve or disapprove all 911 system county plans.

(4) To forward a copy of each county plan application to the council and the commission for their review as required by this act.

(5) To submit an annual report, not later than January 1 of each year, to the Governor and the General Assembly and include at least the following:

(i) The extent to which 911 systems currently exist in Pennsylvania.

(ii) Those counties which completed installation, and costs and expenses for installation.

(iii) An anticipated schedule for installing a 911 system on a county basis for that year.

(b) Powers and duties of the council.—The council shall have the following powers and duties:

(1) To establish technical standards for all county plans.

(2) To review all county plans, including the initial application forwarded by the department for conformity to the technical standards.

(3) To review county plans to determine if equipment conforms to the technical standards.

(4) To recommend approval of plans or indicate deficiencies in plans to the department.

(c) Powers and duties of the commission.—The commission shall have the following powers and duties:

(1) Review the contribution rate requested by the county based on the costs of the plan.

(2) Approve or modify the contribution rate requested by the county and forward its decision to the department.

Section 4. Counties.

(a) Powers and duties.—The board of county commissioners, or, in a home rule county, the appropriate body according to the home rule charter, shall have the following powers and duties in relation to a 911 system:

(1) To designate a member of county government as a coordinator who shall serve as a point of contact with the department and shall develop a county plan for the implementation, operation and maintenance of a 911 system. Where technologically feasible, the county plan shall be adequate to provide service for the entire county.

(2) To make arrangements with each telephone company providing local exchange telephone service within the county's jurisdiction to provide 911 service.

(3) To send a copy of the proposed county plan to the appropriate telephone company upon submission of the plan to the department.

(4) To cooperate with the department, the council and the commission in preparation and submission of the county plan and contribution rate.

(5) To execute all contracts, mutual aid agreements, cross-service agreements and all other necessary documents which may be required in the implementation of the county plan.

(b) Persons outside the county.—When an individual physically resides in an adjacent county, but receives local exchange telephone service from a central office in a county which provides 911 service, it shall be the responsibility of the county with the 911 service to notify the appropriate public agency of a request for emergency service from such an individual.

(c) Cities of the second class, second class A and third class.—Any city of the second class, second class A or third class that has established a 911 system prior to the effective date of this act may exercise the powers and duties of counties under this act. Any city of the second class, second class A or third class that has not established a 911 system prior to the effective date of this act may exercise the powers and duties of counties under this act only when the county has chosen not to exercise those powers and duties. The powers and duties granted to cities under this section shall be applicable and may be exercised only within the boundaries of the city. No action by a city pursuant to this section shall preempt the powers and duties of a county to establish a 911 system outside the boundaries of the city at any time. The department may establish regulations governing the exercise of powers and duties granted to cities of the second class, second class A and third class by this section.

#### Section 5. County plan.

(a) Minimum standards.—Upon the agreement of the governing authority of a county to establish a 911 system, a plan shall be drafted meeting at least the minimum technical standards promulgated by the council. The county may obtain technical assistance from the council in formulating its plan. Each 911 plan shall be designed to meet the individual circumstances of each community and the public agencies participating in the 911 system.

(b) Completion.—Upon completion of the plan, it shall be forwarded to the department, with a copy of the plan being sent to those telephone companies affected by the plan.

(c) Department review.—The department shall initially review the county plan for completeness. The department shall forward a copy of the county plan and the proposed contribution rate to the council and the commission for review as required by this section. After the county plan has been reviewed by the council and the commission, the department shall approve or reject a county plan based on the recommendations of the council and the commission. If the county plan is rejected, the department shall return the county plan and explain the deficiencies that caused the rejection.

(d) Council review.—The council shall have 60 days to review the plan and make suggested revisions of the plan. The council shall submit its findings in writing to the department. The Pennsylvania Emergency Management Agency may act as agent for the council in the administration of the plan approval process.

(e) **Commission review.**— The commission shall review the county plan only in relation to the contribution rate and may modify only those contribution rates which it finds excessive to meet the costs stated in the plan. The rates shall be reviewed and a decision forwarded to the department within 60 days of the date of submission. If the commission fails to review the contribution rate within 60 days, the contribution rate will be deemed approved by the commission.

(f) **Present systems.**— Those counties that presently have 911 systems may establish a contribution rate to cover nonrecurring and operating costs of an existing 911 system by using the same contribution rate approval mechanism as a new 911 system for the purposes of this act. A county which does not have a 911 system in operation on the effective date of this act but which awarded a contract for such a system prior to the effective date of this act shall be considered to have a present system.

(g) **Regional systems.**— Nothing in this act shall be construed to prohibit the formation of multijurisdictional or regional 911 systems, and any system established under this act may include the territory of a county.

(h) **Contribution rate changes.**— Once a plan and contribution rate has been established, the contribution rate shall remain fixed for a period of at least three years. Updating and expanding the present system shall require an amended plan to be filed with the department. The contribution rate shall remain fixed for three years even if the present system is updated and expanded. Requests for contribution rate changes shall be submitted to the department to be forwarded to the commission for approval as provided by subsection (e). Contribution rate increases shall not be permitted more often than every three years and shall not take effect unless approved by the commission.

(i) **Assessment.**— The moneys collected from the telephone contribution rate shall be utilized for payments of nonrecurring and recurring costs of a 911 system. The contribution rate may be imposed at any time subsequent to the execution of a contract with the provider of a 911 service at the discretion of the governing body and pursuant to approval of the county plan and contribution rate under the provisions of this section. The money collected from the contribution rate is a county fee collected by the telephone company; the money is not subject to taxes or charges levied on or by the telephone company. The money collected from the contribution rate shall not be considered revenue of the telephone company for any purpose.

#### Section 6. Special public meeting.

(a) **Public comment.**— Before any county may establish a contribution rate for nonrecurring and recurring costs under this act, it shall obtain public comment from the residents of the county.

(b) **Requirements.**— The proposed contribution rate shall be fixed by the county commissioners in the following manner:

(1) The county commissioners shall cause notices of intention to fix the contribution rate at a special public meeting on a date certain to be published in a newspaper of general circulation at least 10 days in advance of the special public meeting. The notice shall include the precise amount of the proposed monthly contribution rate.

(2) The special public meeting shall be held during the hours of 6:00 p.m. to 9:00 p.m., prevailing time, so as to afford the public the greatest opportunity to attend.

(3) The special meeting shall be held in a centrally located area of the county.

Section 7. Collection and disbursement of contribution.

(a) Subscribers' contribution.—Each service supplier providing local exchange telephone service within the county shall collect the contribution from each subscriber and forward the collection quarterly less the actual uncollectibles experienced by the local exchange telephone companies to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds. The amount of the subscribers' contribution shall be stated separately in the telephone subscribers' billing. Each service supplier shall retain the fair and reasonable cost to establish the 911 contribution rate billing system and an amount not to exceed 2% of the gross receipts collected to cover actual administrative costs.

(b) Subscribers' contribution for multiple line systems.—In the case of Centrex or similar multiple line system subscribers, except PBX subscribers, the following multipliers shall be applied to determine the contribution rate of each such subscriber:

(1) For the first 25 lines, each line shall be billed at the approved contribution rate.

(2) For lines 26 through 100, each line shall be billed at 0.75 of the approved contribution rate.

(3) For lines 101 through 250, each line shall be billed at 0.50 of the approved contribution rate.

(4) For lines 251 through 500, each line shall be billed at 0.20 of the approved contribution rate.

(5) For lines 501 or more, each line shall be billed at 0.172 of the approved contribution rate.

(c) Restricted account.—The county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds shall deposit the moneys received in an interest-bearing restricted account used solely for the purpose of nonrecurring and recurring charges billed for the 911 system and for the purpose of making payments under subsection

(d). The governing body of the county shall make an annual appropriation from such account for the 911 system, subject to the provisions of subsection (d), and may retain up to 1% of the gross receipts collected to cover administrative costs. If the 911 system is discontinued or a county fails to implement a 911 system within three years from the imposition of a monthly contribution rate, any money remaining in the restricted account after all payments to the 911 service supplier have been made shall be transferred to the general fund of the county or proportionately to the general funds of each participating public agency.

(d) Reimbursement to municipalities.—The county treasurer shall, on a quarterly basis, pay from funds of the restricted account to a municipality which operates a 911 system, a sum of money not less than that contributed

by the telephone subscribers of that municipality to the county 911 system, less the applicable service supplier administrative cost provided by subsection (a) and the applicable county administrative cost provided by subsection (c).

(e) Collection enforcement.—The local exchange telephone company has no obligation to take any legal action to enforce the collection of any charge imposed pursuant to this act. Such action may be brought by or on behalf of the public agency imposing the charge. The local exchange telephone company shall annually provide, upon request of the governing body, a list of the names and addresses of those service users which carry a balance that can be determined by the telephone company to be the nonpayment of any charge imposed pursuant to this act. The local exchange telephone company is not liable for uncollectible amounts.

**Section 8. Expenditures for nonrecurring costs, maintenance and operation of 911 systems.**

(a) Expenditures authorized.—During each county's fiscal year, the county may expend the amounts distributed to it from the contribution rate for the nonrecurring costs, maintenance and operation of a county 911 system.

(b) Items included in nonrecurring costs, maintenance and operation costs.—Maintenance and operation costs may include telephone company charges, equipment costs or equipment lease charges, repairs, utilities, data base maintenance costs, personnel salary and benefit costs which are directly related to the provision of 911 services, audit costs and appropriate carryover costs from previous years. Maintenance and operation costs shall not include any cost necessary to house the 911 system. No more than 60% of the contribution rate collected during each county's fiscal year may be utilized to fund personnel salary and benefit costs.

(c) Limitations on expenditures.—The department shall adopt procedures to assure that the total amount collected from the 911 contribution rate shall be expended only for the nonrecurring costs, maintenance and operation of a county 911 system. Nonrecurring costs shall be amortized over a minimum of three years.

(d) Triennial audit.—The department shall require a triennial audit of each county's expenditures for the nonrecurring costs, maintenance and operation of 911 systems. The triennial audit cost shall be paid by the respective county from contribution rate revenues.

**Section 9. Telephone records.**

(a) Access.—Each telephone service supplier shall provide customer telephone numbers, names and service addresses to 911 systems when required. Although customer numbers, names and service addresses shall be available to 911 systems, such information shall remain the property of the disclosing service supplier. The total cost of the system shall include expenses to reimburse telephone service suppliers for providing and maintaining 911 information. This information shall be used only in providing emergency response services to a 911 call. A person who uses or discloses data base information for purposes other than handling a 911 call commits a misdemeanor of the third degree.

(b) **Privacy waived.**—Private listing service customers in a 911 service district shall waive the privacy afforded by nonlisted and nonpublished numbers when using the 911 emergency service.

(c) **Immunity.**—No telephone company, or agent or employee or director of a telephone company, shall be liable to any person who uses the 911 emergency service established under this act:

(1) for release to a public safety answering point of information specified in this section that is not already part of the public records, including nonpublished telephone numbers; or

(2) for interruptions, omissions, defects, errors, mistakes or delays in transmission occurring in the course of rendering 911 emergency service under this act, unless such interruptions, omissions, defects, errors, mistakes or delays are caused by the willful or wanton misconduct of the telephone company, its agents or employees or directors: Provided, however, That nothing herein shall preclude the application of any commission tariff or regulation pertaining to allowances for telephone service interruptions.

**Section 10. Penalty.**

Any person who intentionally calls the 911 emergency number for other than emergency purposes commits a misdemeanor of the third degree.

**Section 11. Rules and regulations.**

The department, in cooperation with the council and the commission, may prescribe such application forms and promulgate such guidelines, rules and regulations as may be necessary to carry out the provisions of this act.

**Section 12. Repeals.**

The act of April 28, 1978 (P.L.90, No.42), known as the Emergency Telephone Act, is repealed.

**Section 13. Effective date.**

This act shall take effect in 60 days.

**APPROVED**—The 9th day of July, A. D. 1990.

**ROBERT P. CASEY**