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HOUSE BILL 439

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO EMERGENCY SERVICES; AMENDING SECTIONS OF THE
ENHANCED 911 ACT; CREATING AN ENHANCED 911 ADVISORY BOARD TO
PROVIDE CONSULTATION TO THE LOCAL GOVERNMENT DIVISION OF THE
DEPARTMENT OF FINANCE AND ADMINISTRATION IN THE ADMINISTRATION
OF THE STATE'S ENHANCED 911 SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 63-9D-3 NMSA 1978 (being Laws 1989,
Chapter 25, Section 3, as amended) is amended to read:

"63-9D-3. DEFINITIONS.--As used in the Enhanced 911 Act:

A. "911 call" means any real-time communication,
message, signal or transmission between a person needing
assistance and a public safety answering point call-taker by
dialing 9-1-1 or its equivalent;

B. "911 service area" means the area designated by

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1 the fiscal agent, local governing body or the division to
2 receive enhanced 911 service;

3 C. "access line" means a telecommunications
4 company's line that has the capability to reach local public
5 safety agencies by dialing 911, but does not include a line
6 used for the provision of interexchange services or commercial
7 mobile radio service;

8 D. "advisory board" means the enhanced 911 advisory
9 board created pursuant to Section 4 of this 2019 act;

10 ~~[D-]~~ E. "commercial mobile radio service" means
11 service provided by a wireless real-time two-way voice
12 communication device, including:

13 (1) radio-telephone communications used in
14 cellular telephone service;

15 (2) the functional or competitive equivalent
16 of radio-telephone communications used in cellular telephone
17 service;

18 (3) a personal communications service; or

19 (4) a network radio access line;

20 ~~[E-]~~ F. "commercial mobile radio service provider"
21 means a person who provides commercial mobile radio services,
22 including a person who purchases commercial mobile radio
23 service from a provider and resells that service;

24 ~~[F-]~~ G. "commission" means the public regulation
25 commission;

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1 ~~[G.]~~ H. "communication service" means any service
2 that:

3 (1) is capable of and required by law to
4 access, connect with or interface with the enhanced 911 system
5 by directly dialing, initializing or otherwise activating the
6 enhanced 911 system regardless of the transmission medium or
7 technology employed; and

8 (2) provides or enables real-time or
9 interactive communication;

10 ~~[H.]~~ I. "communications service provider" means any
11 entity that provides communication services;

12 ~~[I.]~~ J. "database" means information that is
13 collected, formatted and disseminated and that is necessary for
14 the functioning of the enhanced 911 system, including
15 geographic information system (GIS) addressing and digital
16 mapping information;

17 ~~[J.]~~ K. "department" means the taxation and revenue
18 department;

19 ~~[K.]~~ L. "division" means the local government
20 division of the department of finance and administration;

21 ~~[L.]~~ M. "enhanced 911 surcharge" means the monthly
22 uniform charge assessed on each access line in the state, on
23 each active number for a commercial mobile radio service
24 subscriber and on the number of VoIP lines for which the VoIP
25 service provider enables the capacity for simultaneous calls,

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1 regardless of actual usage, to be connected to the public
2 switched telephone network during the period for which the
3 fixed charge is imposed for a VoIP service subscriber in New
4 Mexico and the charge assessed on any other consumer purchase
5 of communication service provided by a communications service
6 provider that enables communication between a person needing
7 assistance and a public safety answering point call-taker by
8 dialing 9-1-1 or its equivalent; provided that an enhanced 911
9 surcharge shall not be assessed on the provision of broadband
10 internet access service;

11 ~~[M-]~~ N. "enhanced 911 system" means, regardless of
12 the technology used, a landline, wireless, NG-911 or ESInet
13 system consisting of network switching equipment, database,
14 mapping and on-premises equipment, or the functional equivalent
15 thereof, that uses the single three-digit number 911 for
16 reporting police, fire, medical or other emergency situations,
17 thereby enabling a caller to reach a public safety answering
18 point to report emergencies by dialing 911, and includes the
19 capability to:

20 (1) selectively route incoming 911 calls to
21 the appropriate public safety answering point operating in a
22 911 service area;

23 (2) automatically display the name, address
24 and telephone number of an incoming 911 call on a video monitor
25 at the appropriate public safety answering point;

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1 (3) provide one or more access paths for
2 communications between users at different geographic locations
3 through a network system that may be designed for voice, text
4 or data, or any combination of these, and may feature limited
5 or open access and may employ appropriate analog, digital
6 switching or transmission technologies;

7 (4) relay to a designated public safety
8 answering point a 911 caller's number and base station or cell
9 site location and the latitude and longitude of the 911
10 caller's location in relation to the designated public safety
11 answering point; and

12 (5) manage or administer the functions listed
13 in Paragraphs (1) through (4) of this subsection;

14 ~~[N-]~~ O. "enhanced 911 equipment" means the public
15 safety answering point equipment directly related to the
16 operation of an enhanced 911 system, including automatic number
17 identification or automatic location identification controllers
18 and display units, printers, logging recorders and software
19 associated with call detail recording, call center work
20 stations, training, latitude and longitude base station or cell
21 site location data and GIS equipment necessary to obtain and
22 process locational map and emergency service zone data for
23 landline and wireless callers;

24 ~~[O-]~~ P. "equipment supplier" means a person who
25 provides or offers to provide communications equipment

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1 necessary for the establishment of enhanced 911 services;

2 [P-] Q. "ESInet" means emergency services internet
3 protocol network, an internet-protocol-based, multipurpose
4 inter-network supporting local, regional, state and national
5 public safety communications services in addition to 911;

6 [Q-] R. "fiscal agent" means the local governing
7 body that administers grants from the fund for a given locality
8 or region by agreement;

9 [R-] S. "fund" means the enhanced 911 fund;

10 [S-] T. "local governing body" means the board of
11 county commissioners of a county or the governing body of a
12 municipality as defined in the Municipal Code;

13 [F-] U. "NG-911" means a next generation 911 system
14 consisting of network, hardware, software, data and operational
15 policies and procedures that:

16 (1) provides standardized interfaces from call
17 and message services;

18 (2) processes all types of emergency calls,
19 including non-voice [~~(multimedia)~~] multimedia messages;

20 (3) acquires and integrates additional data
21 useful to call routing and handling;

22 (4) delivers the calls, messages and data to
23 appropriate public safety answering points and other
24 appropriate emergency entities;

25 (5) supports data and communications needs for

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1 coordinated incident response and management; and

2 (6) provides a secure environment for
3 emergency communications;

4 [~~U.~~] V. "proprietary information" means customer
5 lists, customer counts, technology descriptions or trade
6 secrets, including the actual or development costs of
7 individual components of an enhanced 911 system; provided that
8 such information is designated as proprietary by the
9 communications service provider; and provided further that
10 "proprietary information" does not include individual payments
11 made by the division or any list of names and identifying
12 information of subscribers who have not paid the surcharge;

13 [~~V.~~] W. "public safety answering point" means a
14 twenty-four-hour local communications facility that receives
15 911 service communications and directly dispatches emergency
16 response services or that relays communications to the
17 appropriate public or private safety agency;

18 [~~W.~~] X. "subscriber" means a person who purchases
19 communication services at retail from a communications service
20 provider that are capable of originating a 911 communication;

21 [~~X.~~] Y. "surcharge" means the 911 emergency
22 surcharge;

23 [~~Y.~~] Z. "surcharge collected" means the amount of
24 enhanced 911 surcharge billed or received or deemed to have
25 been received by the seller or provider, consistent with the

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1 seller's or provider's method of accounting, including accrual
2 or cash;

3 ~~[Z.]~~ AA. "telecommunications company" means a
4 person who provides wire telecommunications services that are
5 capable of originating a 911 communication;

6 ~~[AA.]~~ BB. "vendor" means a person that provides 911
7 equipment, service or network support;

8 ~~[BB.]~~ CC. "VoIP" means "interconnected voice-over-
9 internet protocol service" as defined in the Code of Federal
10 Regulations, Title 47, Part 9, Section 9.3, as amended; and

11 ~~[CC.]~~ DD. "VoIP service provider" or
12 "interconnected voice-over-internet protocol service provider"
13 means an entity that provides interconnected voice-over-
14 internet protocol service to end users."

15 **SECTION 2.** Section 63-9D-8 NMSA 1978 (being Laws 1989,
16 Chapter 25, Section 8, as amended) is amended to read:

17 "63-9D-8. ENHANCED 911 FUND--CREATION--ADMINISTRATION--
18 DISBURSEMENT--REPORTS TO LEGISLATURE.--

19 A. There is created in the state treasury a fund
20 that shall be known as the "enhanced 911 fund". The fund shall
21 be administered by the division, in consultation with the
22 advisory board.

23 B. All surcharges collected and remitted to the
24 department shall be deposited in the fund.

25 C. Money deposited in the fund and income earned by

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1 investment of the fund are appropriated for expenditure in
2 accordance with the Enhanced 911 Act and shall not revert to
3 the general fund.

4 D. Payments shall be made from the fund to, or on
5 behalf of, participating local governing bodies or their fiscal
6 agents upon vouchers signed by the director of the division
7 solely for the purpose of reimbursing local governing bodies or
8 their fiscal agents and communications service providers for
9 their costs of providing enhanced 911 service. A person ~~who~~
10 that purchases communication services from a communications
11 service provider for the purpose of reselling that service is
12 not eligible for reimbursement from the fund. Money in the
13 fund may be used for the payment of bonds issued pursuant to
14 the Enhanced 911 Bond Act.

15 E. Annually, the division ~~may~~ shall expend no
16 more than five percent of all money deposited annually in the
17 fund for administering and coordinating activities associated
18 with implementation of the Enhanced 911 Act.

19 F. Money in the fund may be awarded as grant
20 assistance to provide enhanced 911 service and equipment upon
21 application of local governing bodies or their fiscal agents to
22 the division and upon approval by the state board of finance.
23 If it is anticipated that the funds available to pay all
24 requests for grants will be insufficient, the state board of
25 finance may reduce the percentage of assistance to be awarded.

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1 In the event of such reduction, the state board of finance may
2 award supplemental grants to local governing bodies that
3 demonstrate financial hardship.

4 G. After requesting enhanced 911 service from a
5 communications service provider, a local governing body may, by
6 ordinance or resolution, recover from the fund an amount
7 necessary to recover the costs of providing the enhanced 911
8 system in its designated 911 service area. The division, on
9 behalf of local governing bodies, shall directly pay or
10 reimburse communications service providers for their costs of
11 providing enhanced 911 service. If a communications service
12 provider does not receive payment or reimbursement for the
13 costs of providing enhanced 911 service, the provider is not
14 obligated to provide that service.

15 H. The division and the advisory board shall report
16 to the legislature each session the status of the fund and
17 whether the current level of the 911 emergency surcharge is
18 sufficient, excessive or insufficient to fund the anticipated
19 needs for the next year."

20 SECTION 3. Section 63-9D-8.1 NMSA 1978 (being Laws 1990,
21 Chapter 87, Section 3, as amended) is amended to read:

22 "63-9D-8.1. DIVISION POWERS.--

23 A. In consultation with the advisory board, the
24 division may adopt reasonable rules necessary to carry out the
25 provisions of the Enhanced 911 Act.

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1 B. In consultation with the advisory board, the
2 division may fund enhanced 911 systems pursuant to the
3 provisions of the Enhanced 911 Act.

4 C. Division powers are limited and do not include
5 power to intervene between two vendors or restrict marketing
6 efforts of vendors.

7 D. In consultation with the advisory board, the
8 division and the local governing body may establish 911 service
9 areas.

10 E. Unless otherwise provided by law, no rule
11 affecting any person, agency, local governing body or
12 communications service provider shall be adopted, amended or
13 repealed without a public hearing on the proposed action before
14 the director of the division or a hearing officer designated by
15 the director. The public hearing shall be held in Santa Fe
16 unless otherwise permitted by statute. Notice of the subject
17 matter of the rule, the action proposed to be taken, the time
18 and place of the hearing, the manner in which interested
19 persons may present their views and the method by which copies
20 of the proposed rule or proposed amendment or repeal of an
21 existing rule may be obtained shall be published once at least
22 thirty days prior to the hearing in a newspaper of general
23 circulation and mailed at least thirty days prior to the
24 hearing date to all persons or agencies who have made a written
25 request for advance notice of the hearing and to all local

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1 governing bodies and communications service providers.

2 F. All rules shall be filed in accordance with the
3 State Rules Act."

4 SECTION 4. A new section of the Enhanced 911 Act is
5 enacted to read:

6 "[NEW MATERIAL] ENHANCED 911 ADVISORY BOARD--CREATION--
7 MEMBERSHIP--APPOINTMENTS--TERMS.--

8 A. The "enhanced 911 advisory board" is created as
9 an advisory body to the division. The advisory board shall be
10 composed of nine voting members as follows, provided that no
11 more than one member shall be from the same county and all
12 members of the board shall be local government representatives:

13 (1) ex officio, the chair of an emergency
14 services affiliate of an entity that represents counties in the
15 state;

16 (2) ex officio, the president of an emergency
17 services affiliate of an entity that represents municipalities
18 in the state;

19 (3) one member, ex officio, who:
20 (a) shall be appointed by the governor;
21 (b) is a geospatial information systems
22 manager; and

23 (c) is a member of a geospatial
24 information systems entity affiliated with an entity that
25 represents counties in the state;

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1 (4) two members, appointed by the governor
2 from a list of names provided by the president pro tempore of
3 the senate, as follows:

4 (a) one representative of a county or
5 municipal fire department; and

6 (b) ex officio, a director or manager of
7 a public safety answering point;

8 (5) two members, ex officio, appointed by the
9 governor, each of whom shall either be a current director or
10 manager of a public safety answering point;

11 (6) one member, ex officio, who is a director
12 or manager of a public safety answering point, appointed by the
13 governor from a list of names provided by the speaker of the
14 house of representatives; and

15 (7) one representative of county or municipal
16 law enforcement appointed by the speaker of the house of
17 representatives.

18 B. Recommendations for advisory board appointments
19 shall be made to the governor by the association of public-
20 safety communications officials international, New Mexico
21 chapter; the national emergency number association; an entity
22 that represents counties in the state; and an entity that
23 represents municipalities in the state.

24 C. Appointing authorities shall strive to ensure
25 that the composition of the advisory board represents urban and

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1 rural areas of the state.

2 D. Advisory board members shall serve for a term of
3 four years; provided that at the first meeting of the advisory
4 board, the initial members shall draw lots to determine the
5 length of their terms as follows:

6 (1) two members shall serve an initial term of
7 two years;

8 (2) three members shall serve an initial term
9 of three years; and

10 (3) four members shall serve an initial term
11 of four years.

12 E. Advisory board members shall serve until a
13 successor is duly appointed and confirmed.

14 F. An advisory board member shall not serve more
15 than two successive terms.

16 G. The secretary of finance and administration
17 shall call the initial meeting of the advisory board, at which
18 time the advisory board shall elect a chair, vice chair and any
19 other officers it deems necessary and appropriate to serve one-
20 year terms in those offices. After the initial meeting of the
21 advisory board, the chair shall call and preside over advisory
22 board meetings. The vice chair shall preside over advisory
23 board meetings and take necessary actions of the chair when the
24 chair is absent.

25 H. After the initial meeting of the advisory board,

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1 the advisory board shall elect a chair and vice chair yearly.
2 After the expiration of the terms of the initial advisory board
3 chair and vice chair, nominees for chair and vice chair shall
4 have a minimum of one year of experience serving on the
5 advisory board.

6 I. The advisory board shall meet at least once per
7 calendar quarter.

8 J. For voting purposes, a quorum shall consist of
9 at least five advisory board members. Any official action of
10 the advisory board shall require a vote of a quorum of advisory
11 board members.

12 K. A member of the advisory board who fails to
13 attend at least one-half of the regularly scheduled meetings of
14 the advisory board within a twelve-month period shall
15 automatically be removed and the successor member shall be
16 appointed by the appointing authority to serve out the
17 remaining term of the member being replaced.

18 L. The advisory board shall devise bylaws for
19 operation of the advisory board.

20 M. Public members of the advisory board may receive
21 per diem and mileage in accordance with the provisions of the
22 Per Diem and Mileage Act and shall receive no other
23 compensation, perquisite or allowance for their service on the
24 advisory board."