

Legislative Council Service

Information Memorandum

DATE: December 15, 2010

TO: Government Restructuring Task Force Members

FROM: Kim Bannerman

SUBJECT: DEPARTMENT OF PUBLIC SAFETY — SECTION-BY-SECTION
EXPLANATION

Following is a section-by-section explanation of the proposed new department of public safety (DPS). The bill moves the homeland security and emergency management department and the fire marshal division of the public regulation commission into the DPS. It also moves oversight of the Enhanced 911 Act from the local government division of the department of finance and administration (DFA) into the DPS. The bill significantly amends the Enhanced 911 Act to allow the 911 surcharge to apply to new phone service technologies and prepaid calling cards. It also provides for development of a statewide enhanced 911 system utilizing technologies provided by the department of information technology (DoIT). The bill also addresses boards and commissions related to the DPS by: (1) eliminating the crime stoppers advisory council, mounted patrol board of directors, DNA identification system oversight committee and intrastate mutual aid committee and transferring their functions to the DPS; and (2) sunsetting the interoperability planning commission and the state emergency response commission.

Any opinions expressed are those of the author and do not necessarily reflect the opinions of the New Mexico legislative council or any other member of its staff. Note that amendatory sections that are cleanup without substantive changes are not discussed.

Section 5 (pages 8-9). Purpose of the department. This section adds homeland

security and emergency management functions to the DPS's purpose. With new language bolded, the section provides that the purpose of the DPS Act is to:

establish a single, unified department to consolidate law enforcement, safety **and homeland security and emergency management** functions in order to provide better management, real coordination and more efficient use of state resources and manpower in responding to New Mexico's public safety **and homeland security and emergency management** needs and problems and to improve the professionalism of the state's law enforcement and investigative functions and personnel **and the state's homeland security and emergency management functions and personnel.**

Section 6 (page 9). Department created. This section provides the structure of the DPS, with new organizational units bolded:

- A. the New Mexico state police division;
- B. the special investigations division;
- C. the training and recruiting division;
- D. the technical support division;
- E. the administrative services division;
- F. the motor transportation division;
- G. the information technology division;
- H. the homeland security and emergency management division;**
- I. the fire marshal division; and**
- J. the enhanced 911 division.**

Section 7 (pages 9-14). Secretary's duties and powers. Language was added to ensure that the secretary of public safety is the coordinating official of all departments and agencies and their employees when emergencies are declared by the governor.

Sections 12 through 18 (pages 23-30). These sections all deal with emergency situations. The homeland security and emergency management division of the DPS remains the primary authority and coordinating official when dealing with emergencies in the state.

Sections 19 through 23 (pages 30-37). These sections eliminate the intrastate mutual aid committee and transfer its powers and duties to the homeland security and emergency management division of the DPS.

Section 27 (pages 39-40). This section sunsets the interoperability planning commission in 2015.

Sections 39 and 40 (pages 60-62). These sections eliminate the mounted patrol board of directors and transfer its powers and duties to the DPS.

Section 43 (pages 66-67). This section transfers the authority of the crime stoppers advisory council, which is repealed later in the act, to the DPS.

Sections 44 through 50 (pages 66-75). These sections eliminate the DNA identification system oversight committee and transfer its powers and duties to the DPS.

Sections 50 through 56 (pages 75-81). These sections move all the fire marshal division duties from the public regulation commission to the DPS, including the fire protection fund.

Section 57 (pages 81-87). Enhanced 911 Act definitions. This section amends certain definitions and adds new definitions, including:

A. 911 emergency surcharge — amended to include phone services that use an internet connection to make and receive calls and other new technology used for phone services;

F. communication service — added to ensure that new technologies used for phone services are covered by the act;

J. division — changed from the local government division of the DFA to the enhanced 911 division of the DPS;

K. emergency services internet protocol network — added to the definitions section to ensure that the act deals with new technology such as internet-based public communication systems;

L. enhanced 911 system — amended to include new technologies (emergency services internet protocol network and next-generation 911 systems);

R. interconnected voice over internet protocol service — added to ensure that the act covers phone services that use an internet connection to make and receive calls; and

T. next-generation 911 technology — allows for the use of new technology developed to make 911 systems more efficient and compatible with phone services that are non-traditional.

Section 58 (pages 87-89). Imposition of the 911 emergency surcharge. This section is

amended to include all new technologies used for phone services, including interconnect voice over internet protocol service. This amendment will ensure that the surcharge applies to the users of these new technologies. Also, the section clarifies how to determine if the primary place of use of the service is New Mexico to comply with federal law.

Section 59 (pages 89-92). Prepaid wireless communication surcharge. This section enacts a new 911 emergency surcharge for prepaid phone cards. The surcharge is one and eight-tenths percent of the cost of the prepaid service.

Section 61, Subsection H (page 96). Enhanced 911 fund. This section is amended to allow money in the fund to be used by the enhanced 911 division, in conjunction with the DoIT, to develop and provide for a statewide enhanced 911 system.

Section 65 (pages 99-100). Statewide enhanced 911 system. This is a new section requiring the enhanced 911 division of the DPS to work with the DoIT to develop and implement a statewide enhanced 911 system. It requires the DoIT to provide the technical infrastructure needed for the development of such a system utilizing next-generation 911 technology and an emergency services internet protocol network. In addition, this section mandates that all locally controlled public safety answering points connect to the statewide system when it becomes fully operational.

Section 70 (page 104). Sunsets the state emergency response commission in 2015.

Section 71 (pages 104-106). Temporary provision; transfers. This section is a standard transfer section, and it transfers functions, appropriations, property and contractual obligations from the homeland security and emergency management department, the fire marshal division of the public regulation commission and the local government division of the DFA relating to the Enhanced 911 Act to the DPS. It also transfers the functions, appropriations, property and contractual obligations of the mounted patrol board of directors and crime stoppers advisory council, both of which are eliminated by the bill, to the DPS.

Section 72 (page 106). Temporary provision; recompilation. This section moves the sections establishing the firefighter training academy and fire marshal division out of the Public Regulation Commission Act into the DPS Act.

Section 73 (page 106). Repeal. This section repeals the Homeland Security and Emergency Management Department Act and sections of law creating the crime stoppers advisory council and the mounted patrol board of directors.

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