

~~or~~ an assessment performed in accordance with section ~~232.71A~~ 232.71B, a written statement to the effect that report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that data or of the findings of the ~~investigation or~~ assessment report. The department shall provide the subject with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the data or the findings, unless the department corrects the data or findings as requested. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the data or findings.

Sec. 99. RETROACTIVE APPLICABILITY. Sections 92 through 94 of this Act, amending 1997 Iowa Acts, chapters 130, 137, and 175, are retroactively applicable to July 1, 1997.

Approved April 15, 1998

CHAPTER 1101

ENHANCED E911 EMERGENCY TELEPHONE SYSTEMS — WIRELESS COMMUNICATIONS SURCHARGE AND E911 ADMINISTRATOR

S.F. 530

AN ACT relating to the establishment of an E911 surcharge, providing for the distribution of the surcharge, and providing a pooling mechanism for the purchase of equipment necessary for an E911 system and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 16.161, Code 1997, is amended to read as follows:
16.161 AUTHORITY TO ISSUE E911 PROGRAM BONDS AND NOTES.

The authority shall assist the ~~department of public defense administrator appointed pursuant to section 34A.2A or~~* as provided in chapter 34A, subchapter II and the authority shall have all of the powers delegated to it by a joint E911 service board or the department of public defense in a chapter 28E agreement with respect to the issuance and securing of bonds or notes and the carrying out of the purposes of chapter 34A.

Sec. 2. Section 16.161, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The authority shall provide a mechanism for the pooling of funds of two or more joint E911 service boards to be used for the joint purchasing of necessary equipment and reimbursement of land-line and wireless service providers' costs for upgrades necessary to provide E911 service. When two or more joint E911 service boards have agreed to pool funds for the purpose of purchasing necessary equipment to be used in providing E911 service, the authority shall issue bonds and notes as provided in sections 34A.20 through 34A.22.

Sec. 3. Section 34A.2, subsection 2, Code 1997, is amended to read as follows:

2. "Administrator" means the E911 administrator of the division of emergency management of the department of public defense appointed pursuant to section 34A.2A.

Sec. 4. Section 34A.2, subsection 3, Code 1997, is amended by striking the subsection.

* The underscored word "or" probably not intended

Sec. 5. NEW SECTION. 34A.2A ADMINISTRATOR — APPOINTMENT — DUTIES.

The administrator of the division of emergency management of the department of public defense shall appoint an E911 administrator to administer this chapter. The E911 administrator shall act under the supervisory control of the administrator of the division of emergency management of the department of public defense, and in consultation with the E911 communications council, and perform the duties specifically set forth in this chapter.

Sec. 6. Section 34A.3, subsection 1, Code 1997, is amended to read as follows:

1. JOINT 911 SERVICE BOARDS TO SUBMIT PLANS. The board of supervisors of each county shall establish a joint 911 service board not later than January 1, 1989. Each political subdivision of the state having a public safety agency serving territory within the county is entitled to voting membership on the joint 911 service board. Each private safety agency operating within the area is entitled to nonvoting membership on the board. A township which does not operate its own public safety agency, but contracts for the provision of public safety services, is not entitled to membership on the joint 911 service board, but its contractor is entitled to membership according to the contractor's status as a public or private safety agency. The joint 911 service board shall develop an enhanced 911 service plan encompassing at minimum the entire county, unless an exemption is granted by the administrator permitting a smaller E911 service area. The administrator may grant a discretionary exemption from the single county minimum service area requirement based upon an E911 joint service board's or other E911 service plan operating authority's presentation of evidence which supports the requested exemption if the administrator finds that local conditions make adherence to the minimum standard unreasonable or technically infeasible, and that the purposes of this chapter would be furthered by granting an exemption. The minimum size requirement is intended to prevent unnecessary duplication of public safety answering points and minimize other administrative, personnel, and equipment expenses. An E911 service area must encompass a geographically contiguous area. No exemption shall be granted from the contiguous area requirement. The administrator may order the inclusion of a specific territory in an adjoining E911 service plan area to avoid the creation by exclusion of a territory smaller than a single county not serviced by surrounding E911 service plan areas upon request of the joint 911 service board representing the territory. The E911 service plan operating authority shall submit the plan on or before January 1, 1994, to all of the following:

- a. The ~~division administrator~~.
- b. Public and private safety agencies in the enhanced 911 service area.
- c. Providers affected by the enhanced 911 service plan.

An E911 joint service board that has a state-approved service plan in place prior to July 1, 1993, is exempt from the provisions of this section. The ~~division administrator~~ shall establish, by July 1, 1994, E911 service plans for those E911 joint service boards which do not have a state-approved service plan in place on or before January 1, 1994.

The ~~division administrator~~ shall prepare a summary of the plans submitted and present the summary to the legislature on or before August 1, 1994.

Sec. 7. Section 34A.6, subsection 3, Code 1997, is amended to read as follows:

3. The secretary of state, in consultation with the administrator ~~of the office of emergency management of the department of public defense~~, shall adopt rules for the conduct of joint E911 service referendums as required by and consistent with subsections 1 and 2.

Sec. 8. Section 34A.7, subsection 6, Code 1997, is amended to read as follows:

6. LIMITATION OF ACTIONS — PROVIDER NOT LIABLE ON CAUSE OF ACTION RELATED TO PROVISION OF 911 SERVICES. A claim or cause of action does not exist based upon or arising out of an act or omission in connection with a land-line or wireless provider's participation in an E911 service plan or provision of 911 or local exchange access service, unless the act or omission is determined to be willful and wanton negligence.

Sec. 9. NEW SECTION. 34A.7A WIRELESS COMMUNICATIONS SURCHARGE — FUND ESTABLISHED — DISTRIBUTION AND PERMISSIBLE EXPENDITURES.

1. a. Notwithstanding section 34A.6, the administrator shall adopt by rule a monthly surcharge of up to fifty cents to be imposed on each wireless communications service number provided in this state. The surcharge shall be imposed uniformly on a statewide basis and simultaneously on all wireless communications service numbers as provided by rule of the administrator.

b. The administrator shall provide no less than one hundred days' notice of the surcharge to be imposed to each wireless communications service provider. The administrator, subject to the fifty cent limit in paragraph "a", may adjust the amount of the surcharge as necessary, but no more than once in any calendar year.

c. The surcharge shall be collected as part of the wireless communications service provider's periodic billing to a subscriber. In compensation for the costs of billing and collection, the provider may retain one percent of the gross surcharges collected. The surcharges shall be remitted quarterly by the provider to the administrator for deposit into the fund established in subsection 2. A provider is not liable for an uncollected surcharge for which the provider has billed a subscriber but which has not been paid. The surcharge shall appear as a single line item on a subscriber's periodic billing indicating that the surcharge is for E911 emergency telephone service. The E911 service surcharge is not subject to sales or use tax.

2. Moneys collected pursuant to subsection 1 shall be deposited in a separate wireless E911 emergency communications fund within the state treasury under the control of the administrator. Section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section. Moneys in the fund shall be expended and distributed annually as follows:

a. An amount as appropriated by the general assembly to the administrator for implementation, support, and maintenance of the functions of the administrator.

b. (1) The administrator shall retain funds necessary to reimburse wireless carriers for their costs to deliver E911 services. The administrator shall assure that wireless carriers recover all eligible costs associated with the implementation and operation of E911 services, including but not limited to hardware, software, and transport costs. The administrator shall adopt rules defining eligible costs which are consistent with federal law, regulations, and any order of a federal agency.

(2) The administrator shall provide for the reimbursement of wireless carriers on a quarterly basis. If the total amount of moneys available in the fund for the reimbursement of wireless carriers pursuant to subparagraph (1) is insufficient to reimburse all wireless carriers for such carriers' eligible expenses, the administrator shall remit an amount to each wireless carrier equal to the percentage of such carrier's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which such expenses were submitted.

c. (1) The remainder of the surcharge collected shall be remitted to the administrator for distribution to the joint E911 service boards and the department of public safety pursuant to subparagraph (2) to be used for the implementation of enhanced wireless communications capabilities.

(2) The administrator, in consultation with the E911 communications council, shall adopt rules pursuant to chapter 17A governing the distribution of the surcharge collected and distributed pursuant to this lettered paragraph. The rules shall include provisions that all joint E911 service boards and the department of public safety which answer or service wireless E911 calls are eligible to receive an equitable portion of the receipts.

A joint E911 service board or the department of public safety, to receive funds from the E911 emergency communications fund, must submit a written request for such funds to the administrator in a form as approved by the administrator. A request shall be for funding

under an approved E911 service plan for equipment which is directly related to the reception and disposition of incoming wireless E911 calls. The administrator may approve the distribution of funds pursuant to such request if the administrator finds that the requested funding is for equipment necessary for the reception and disposition of such calls and that sufficient funds are available for such distribution.

If insufficient funds are available to fund all requests, the administrator shall fund requests in an order deemed appropriate by the administrator after considering factors including, but not limited to, all of the following:

(a) Documented volume of wireless E911 calls received by each public safety answering point.

(b) The population served by each public safety answering point.

(c) The number of wireless telephones in the public safety answering point jurisdiction.

(d) The public safety of the citizens of this state.

(e) Any other factor deemed appropriate by the administrator, in consultation with the E911 communications council, and adopted by rule.

(3) The administrator shall submit an annual report by January 15 of each year advising the general assembly of the status of E911 implementation and operations, including both land-line and wireless services, and the distribution of surcharge receipts.

3. The amount collected from a wireless service provider and deposited in the fund, pursuant to section 22.7, subsection 6, information provided by a wireless service provider to the administrator consisting of trade secrets, pursuant to section 22.7, subsection 3, and other financial or commercial operations information provided by a wireless service provider to the administrator, shall be kept confidential as provided under section 22.7. This subsection does not prohibit the inclusion of information in any report providing aggregate amounts and information which does not identify numbers of accounts or customers, revenues, or expenses attributable to an individual wireless communications service provider.

4. For purposes of this section, "wireless communications service" means commercial mobile radio service, as defined under sections 3(27) and 332(d) of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq.; federal communications commission rules, and the Omnibus Budget Reconciliation Act of 1993. "Wireless communications service" includes any wireless two-way communications used in cellular telephone service, personal communications service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network access line. "Wireless communications service" does not include services whose customers do not have access to 911 or a 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

Sec. 10. Section 34A.15, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

An E911 communications council is established. The council consists of the following ~~eleven~~ thirteen members:

Sec. 11. Section 34A.15, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Two persons appointed by the Iowa wireless industry. One appointee shall represent cellular companies and the other appointee shall represent personal communications services companies.

Sec. 12. Section 34A.15, subsection 2, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

2. The council shall advise and make recommendations to the administrator regarding the implementation of this chapter. Such advice and recommendations shall be provided on issues at the request of the administrator or as deemed necessary by the council.

Sec. 13. Section 34A.15, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A member of the council shall be reimbursed for actual and necessary expenses incurred in the performance of the member's duties, if such member is not otherwise reimbursed for such expenses.

Sec. 14. Section 34A.20, subsection 2, Code 1997, is amended to read as follows:

2. The authority shall cooperate with the ~~department of public defense~~ administrator in the creation, administration, and funding of the E911 program established in subchapter I.

Sec. 15. TRANSITION PROVISIONS.

1. The E911 administrator appointed pursuant to section 34A.2A, as enacted in this Act, shall be appointed by no later than July 1, 1998. The E911 administrator shall determine and implement an initial surcharge as soon as possible, but at a minimum such surcharge shall be determined and implemented by no later than January 1, 1999.

2. a. There is appropriated from surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for the fiscal year beginning July 1, 1998, and ending June 30, 1999, an amount not to exceed two hundred thousand dollars to be used for the implementation, support, and maintenance of the functions of the E911 administrator. The amount appropriated in this paragraph includes any amounts necessary to reimburse the division of emergency management of the department of public defense pursuant to paragraph "b".

b. Notwithstanding the distribution formula in section 34A.7A, as enacted in this Act, and prior to any such distribution, of the initial surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for the fiscal year beginning July 1, 1998, and ending June 30, 1999, an amount shall be transferred to the division of emergency management of the department of public defense as necessary to reimburse the division for amounts expended for the implementation, support, and maintenance of the E911 administrator, including the E911 administrator's salary.

3. a. Notwithstanding the distribution formula in section 34A.7A, as enacted in this Act, and after the distribution provided for in subsection 2 of this section and prior to any other distribution pursuant to section 34A.7A, of the surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for the fiscal year beginning July 1, 1998, and ending June 30, 1999, an amount not to exceed eighty thousand dollars shall be transferred to the Iowa law enforcement academy to be used for implementation, maintenance, and support of telecommunicator training. For purposes of this paragraph, the total amount transferred includes any amounts transferred to the Iowa law enforcement academy under paragraph "b".

b. The Iowa law enforcement academy shall begin as soon as practicable the telecommunicator training as provided in this subsection. If the academy expends funds on or after July 1, 1998, for telecommunicator training and prior to the imposition of the surcharge under section 34A.7A, the E911 administrator, subject to the limit of eighty thousand dollars in paragraph "a", shall transfer from the wireless E911 emergency communications fund to the Iowa law enforcement academy an amount necessary to reimburse the academy for such amounts expended by the academy. The E911 administrator and the Iowa law enforcement academy shall provide a written report to the fiscal committee of the legislative council and to the legislative fiscal bureau regarding amounts expended by the academy and reimbursed by the E911 administrator pursuant to this section.

c. The Iowa law enforcement academy, for telecommunicator training for fiscal years beginning on and after July 1, 1999, shall submit requests for funding through the general assembly's appropriation process in the same manner as the academy submits requests for other general fund appropriations.

4. a. The department of public defense is authorized two additional full-time equivalent positions for the purpose of implementing the amendments to chapter 34A in this Act. Included in these two full-time equivalent positions is the E911 administrator appointed pursuant to section 34A.2A, as enacted in this Act.

b. The Iowa law enforcement academy is authorized one and one-half additional full-time equivalent positions for the purpose of implementing telecommunicator training as provided for in this Act.

Sec. 16. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 16, 1998

CHAPTER 1102

MEMBERSHIP OF FAMILY DEVELOPMENT AND SELF-SUFFICIENCY COUNCIL

S.F. 2072

AN ACT providing for the appointment of an additional member to the family development and self-sufficiency council.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 217.11, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. The director of the department of workforce development or the director's designee.

Approved April 16, 1998

CHAPTER 1103

RAW MILK TRANSPORTER PERMITS

S.F. 2218

AN ACT relating to the issuance of highway travel permits to raw milk transporters whose motor trucks exceed gross weight and axle weight restrictions and establishing a fee.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION.** 321E.29A RAW MILK TRANSPORTERS.

The department or a local authority may issue annual permits authorizing a raw milk transporter to transport by motor truck raw milk to or from a milk plant, receiving station, or transfer station. The combined gross weight or gross weight on any axle or groups of axles of the motor truck shall not exceed the limits established under section 321.463. The issuing authority may specify weight limits or routes for each raw milk transporter or establish weight limits or routes under section 321E.8.

Sec. 2. Section 321.463, subsection 3, Code Supplement 1997, is amended to read as follows: