

CHAPTER 1177**EMERGENCY TELEPHONE COMMUNICATION SYSTEMS***H.F. 2400*

AN ACT relating to enhanced 911 emergency telephone communication systems, by requiring each county to prepare an enhanced 911 service plan for submittal to the office of disaster services on or before March 1, 1989, by requiring conversion of pay telephones to accept 911 calls without charge, by allowing a local E911 service surcharge, by providing certain liability exemptions in conjunction with the delivery of E911 services, and by providing a limited privacy waiver to permit nonlisted or unpublished numbers to be included in E911 service providing a penalty, and an effective date.

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

Section 1. NEW SECTION. 477B.1 PURPOSE.

The legislature finds that enhanced 911 emergency telephone communication systems further the public interest and protect the health, safety, and welfare of the people of Iowa. The purpose of this chapter is to enable the orderly development, installation, and operation of enhanced 911 emergency telephone communication systems statewide. These systems are to be operated under governmental management and control for the public benefit.

Sec. 2. NEW SECTION. 477B.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the division of disaster services of the department of public defense.
2. "Public or private safety agency" means a unit of state or local government, a special purpose district, or a private firm which provides or has the authority to provide fire fighting, police, ambulance, or emergency medical services.
3. "Provider" means a person who provides, or offers to provide, E911 equipment, installation, maintenance, or exchange access services within the enhanced 911 service area.
4. "Enhanced 911" or "E911" means a service which provides the user of a public telephone system the ability to reach a public safety answering point by dialing the digits 911, and which has the following additional features:
 - a. Routes an incoming 911 call to the appropriate public safety answering point selected from the public safety answering points operating in a 911 service area.
 - b. Automatically displays the name, address, and telephone number of an incoming 911 call and public safety agency servicing the address on a video monitor at the appropriate public safety answering point.
5. "Enhanced 911 service plan" means a plan that includes the following information:
 - a. A description of the enhanced 911 service area.
 - b. A list of all public and private safety agencies within the enhanced 911 service area.
 - c. The number of public safety answering points within the enhanced 911 service area.
 - d. Identification of the agency responsible for management and supervision of the enhanced 911 emergency telephone communication system.
 - e. A statement of estimated costs to be incurred by the joint E911 service board, including separate estimates of the following:
 - (1) Nonrecurring costs, including, but not limited to, public safety answering points, network equipment, software, database, addressing, initial training, and other capital and start-up expenditures, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider.

(2) Recurring costs, including, but not limited to, network access fees and other telephone charges, software, equipment, and database management, and maintenance, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider. Recurring costs shall not include personnel costs for a public safety answering point.

Costs are limited to nonrecurring and recurring costs directly attributable to the provision of 911 emergency telephone communication service. Costs do not include expenditures for any other purpose, and specifically exclude costs attributable to other emergency services or expenditures for buildings, radios, or personnel.

f. Current equipment operated by affected providers, and central office equipment and technology upgrades necessary for the provider to implement enhanced 911 service within the enhanced 911 service area on or before July 1, 1992.

g. A schedule for implementation of the plan throughout the E911 service area. The schedule may provide for phased implementation. However, a joint 911 service board may decide not to implement E911 service.

h. The number of telephone access lines in the enhanced 911 service area.

i. The total property valuation in the enhanced 911 service area.

6. "Enhanced 911 service area" means the geographic area to be serviced, or currently serviced under an enhanced 911 service plan, provided that an enhanced 911 service area must at minimum encompass one entire county. The enhanced 911 service area may encompass more than one county, and need not be restricted to county boundaries.

7. "Enhanced 911 service surcharge" is a charge set by the E911 service area operating authority and assessed on each access line which physically terminates within the E911 service area.

8. "Access line" means a local exchange access line that has the ability to access local dial tone and reach a local public safety agency.

9. "Division" means the division of disaster services, department of public defense.

10. "Public safety answering point" means a twenty-four hour local jurisdiction communications facility which receives enhanced 911 service calls and directly dispatches emergency response services or relays calls to the appropriate public or private safety agency.

11. "Local exchange service provider" means a person engaged in providing telecommunications service between points within an exchange.

Sec. 3. NEW SECTION. 477B.3 JOINT 911 SERVICE BOARD — 911 SERVICE PLAN — IMPLEMENTATION — WAIVERS.

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 entity operating within the area is entitled to nonvoting membership on the board. 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 March 1, 1989, to all of the following:

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

The division shall prepare a statewide summary of the plans submitted and present the summary to the legislature on or before June 1, 1989.

2. **COMPLIANCE WAIVERS AVAILABLE IN LIMITED CIRCUMSTANCES.** The administrator may extend, in whole or in part, the time for implementation of an enhanced 911 service plan beyond the scheduled plan of implementation, by issuance of a compliance waiver. The waiver shall be based upon a joint 911 service board's presentation of evidence which supports an extension if the administrator finds that local conditions make implementation financially unreasonable or technically infeasible by the originally scheduled plan of implementation. The compliance waiver shall be for a set period of time, and subject to review and renewal or denial of renewal upon its expiration. The waiver may cover all or a portion of a 911 service plan's enhanced 911 service area to facilitate phased implementation when possible. The granting of a compliance waiver does not create a presumption that the identical or similar waiver will be extended in the future. Consideration of compliance waivers shall be on a case-by-case basis.

3. **28E AGREEMENT — ALTERNATIVE TO JOINT 911 SERVICE BOARD.** A legal entity created pursuant to chapter 28E by a county or counties, other political divisions, and public or private agencies to jointly plan, implement, and operate a countywide, or larger, enhanced 911 service system may be substituted for the joint 911 service board required under subsection 1.

4. **PARTICIPATION IN JOINT E911 SERVICE BOARD REQUIRED.** A political subdivision or state agency having a public safety agency within its territory or jurisdiction shall participate in a joint E911 service board and cooperate in preparing the E911 service plan.

Sec. 4. **NEW SECTION. 477B.4 REQUIRED CONVERSION OF PAY TELEPHONES TO ALLOW 911 CALLS WITHOUT DEPOSITING COINS OR OTHER CHARGE.**

1. **CONVERSION AND NOTICE REQUIRED.** When an enhanced 911 service system becomes operational or as soon as feasible thereafter, each provider or other owner or lessee of a pay station telephone to be operated within the enhanced 911 service area shall do the following:

- a. Convert each telephone to permit a caller to dial 911 without first inserting a coin or paying any other charge.
- b. Prominently display on each pay telephone a notice advising callers to dial 911 in an emergency and that deposit of a coin is not required.

2. **CERTAIN PAY PHONES PROHIBITED WITHIN SERVICE AREA.** After commencement of enhanced 911 service in an enhanced 911 service area, a person shall not install or offer for use within the 911 service area a pay station telephone unless the telephone is capable of accepting a 911 call without prior insertion of a coin or payment of any other charge, and unless the telephone displays notice of free 911 service.

Sec. 5. **NEW SECTION. 477B.5 PRIVATE LISTING SUBSCRIBERS AND 911 SERVICE.**

Private listing subscribers in an enhanced 911 service area waive the privacy afforded by nonlisted or nonpublished numbers to the extent that the name and address associated with

the telephone number may be furnished to the enhanced 911 service system, for all routing, for automatic retrieval of location information, and for associated emergency services.

Sec. 6. NEW SECTION. 477B.5A REFERENDUM ON E911 IN PROPOSED SERVICE AREA.

1. Before a joint E911 service board may request imposition of the surcharge by the administrator, the board shall submit the following question to either voters or subscribers, as provided in subsection 2, in the proposed E911 service area, and the question shall receive a favorable vote from a simple majority of persons submitting valid ballots on the following question within the proposed E911 service area:

“Should enhanced 911 emergency telephone service be funded, in whole or in part, by a surcharge of (up to twenty-five cents) per month per telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within (description of the proposed E911 service area)?”

2. The referendum required as a condition of the surcharge imposition in subsection 1 shall be conducted using one of the following electoral mechanisms at the option of the joint E911 service board:

a. A local exchange access company providing service to subscribers within the proposed E911 service area shall provide the name and address of each subscriber to be served to the joint E911 service board proposing to provide E911 service. The names and addresses may be used by the joint E911 service board for the purpose of mailing referendum ballots. Ballots shall be returned to the subscriber’s county commissioner of elections who shall report the results to the joint E911 service board. The joint E911 service board shall compile the results if subscribers from more than one county are included within the proposed service area. The board shall announce whether a simple majority of subscribers submitting valid ballots within the proposed E911 service area approved the referendum question. A subscriber may only vote once.

b. At the request of the joint E911 service board a county commissioner of elections shall include the question on the next eligible election ballot in each electoral precinct to be served, in whole or in part, by the proposed E911 service area. The question may be included in the next election in which all of the voters in the proposed E911 service area will be eligible to vote on the same day, such as a primary, general, or school board election. The county commissioner of elections shall report the results to the joint E911 service board. The joint E911 service board shall compile the results if subscribers from more than one county are included within the proposed service area. The joint E911 service board shall announce whether a simple majority of the compiled votes reported by the commissioner approved the referendum question.

3. The secretary of state, in consultation with the administrator of the office of disaster services 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. 7. NEW SECTION. 477B.6 FUNDING — E911 SERVICE SURCHARGE.

When an E911 service plan is implemented, the costs of providing E911 service within an E911 service area are the responsibility of the joint E911 service board and the member political subdivisions. Costs in excess of the amount raised by imposition of the E911 service surcharge provided for under subsection 1, shall be paid by the joint E911 service board from such revenue sources allocated among the member political subdivisions as determined by the joint E911 service board. Funding is not limited to the surcharge, and surcharge revenues may be supplemented by other permissible local and state revenue sources.

1. LOCAL E911 SERVICE SURCHARGE IMPOSITION.

a. To encourage local implementation of E911 service, one source of funding for E911 emergency telephone communication systems shall come from a surcharge of twenty-five cents, per month, per access line on each access line subscriber, except as provided in subsection 5. The surcharge shall be imposed by order of the administrator as follows:

(1) The administrator shall notify a provider scheduled to provide exchange access line service to an E911 service area, that implementation of an approved E911 service plan is to begin within one hundred days.

(2) The notice shall be provided at least one hundred days before the surcharge must be billed for the first time.

b. The surcharge shall terminate at the end of twenty-four months, unless either, or both, of the following conditions is met:

(1) E911 service is initiated for all or a part of the E911 service area.

(2) An extension is granted by the administrator for good cause.

2. SURCHARGE COLLECTED BY PROVIDERS. The surcharge shall be collected as part of the access line 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. If the compensation is insufficient to fully recover a provider's costs for billing and collection of the surcharge, the deficiency shall be included in the provider's costs for ratemaking purposes to the extent it is reasonable and just under section 476.6. The surcharge shall be remitted to the E911 service operating authority for deposit into the E911 service fund quarterly by the provider. A provider is not liable for an uncollected surcharge for which the provider has billed a subscriber but not been paid. The surcharge shall appear as a single line item on a subscriber's periodic billing entitled, "E911 emergency telephone service surcharge". The E911 service surcharge is not subject to sales or use tax.

3. MAXIMUM LIMIT PER SUBSCRIBER BILLING FOR SURCHARGE. An individual subscriber shall not be required to pay on a single periodic billing the surcharge on more than one hundred access lines, or their equivalent, in an E911 service area. A subscriber shall pay the surcharge in each E911 service area in which the subscriber receives access line service.

4. E911 SERVICE FUND. Each joint E911 service board shall establish and maintain as a separate account an E911 service fund. Any funds remaining in the account at the end of each fiscal year shall not revert to the general funds of the member political subdivisions, except as provided in subsection 5, but shall remain in the E911 service fund. Moneys in an E911 service fund may only be used for nonrecurring and recurring costs of the E911 service plan as approved by the administrator, as those terms are defined by section 477B.2.

5. USE OF MONEYS IN FUND — PRIORITY AND LIMITATIONS ON EXPENDITURE. Moneys deposited in the E911 service fund shall be used for the following, in order of priority:

a. Money shall first be spent for actual recurring costs of operating the E911 service plan.

b. If money remains in the fund after fully paying for recurring costs incurred in the preceding year, the remainder may be spent to pay for nonrecurring costs, not to exceed actual nonrecurring costs as approved by the administrator.

c. If money remains in the fund after fully paying obligations under subsections 1 and 2, the remainder may be accumulated in the fund as a carryover operating surplus. If the surplus is greater than twenty-five percent of the approved annual operating budget for the next year, the administrator shall reduce the surcharge by an amount calculated to result in a surplus of no more than twenty-five percent of the planned annual operating budget. After nonrecurring costs have been paid, if the surcharge is less than twenty-five cents and the fund surplus is less than twenty-five percent of the approved annual operating budget, the administrator shall, upon application of the joint E911 service board, increase the surcharge in an amount

calculated to result in a surplus of twenty-five percent of the approved annual operating budget. In no case may the surcharge exceed twenty-five cents per month, per access line. The surcharge may only be adjusted once in a single year, upon one hundred days' prior notice to the provider.

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 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. 8. **NEW SECTION. 477B.7 LOCAL EXCHANGE SERVICE INFORMATION.**

1. A local exchange service provider shall furnish to the E911 service provider, designated by the joint E911 service board, all names, addresses, and telephone number information concerning its subscribers which will be served by the E911 system and shall periodically update the local exchange service information. The local exchange service provider shall receive as compensation for the provision of local exchange service information charges according to its tariffs on file with and approved by the Iowa utilities board. The tariff charges shall be the same whether or not the local exchange service provider is designated as the E911 service provider by the joint E911 service board.

2. Subscriber information remains the property of the local exchange service provider.

The joint E911 service board, the designated E911 provider, and the public safety answering point, their agents, employees, and assigns shall use local exchange service information provided by the local exchange service provider solely for the purposes of providing E911 emergency telephone service, and it shall otherwise be kept confidential. A person who violates this section is guilty of a simple misdemeanor.

This chapter does not require a local exchange service provider to sell or provide its subscriber names, addresses, or telephone number information to any person other than the E911 service provider designated by the joint E911 service board.

Sec. 9. Section 613A.4, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 11. A claim based upon or arising out of an act or omission in connection with an emergency response including but not limited to acts or omissions in connection with emergency response communications services.

Sec. 10. Section 613A.4, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not expand any existing cause of action or create any new cause of action against a municipality.

Sec. 11. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 6, 1988

CHAPTER 1178**RESALE POWER GROUP OF IOWA LEGALIZING ACT***H.F. 2470*

AN ACT to legalize and validate the proceedings for the organization and operation of the Resale Power Group of Iowa and declaring it to be legally established and declaring each and all of its acts to have been legally taken and declaring each and all of the actions taken by the Resale Power Group of Iowa and by the City of Burt, City of Dike, City of Dysart, City of Long Grove, City of Maquoketa, City of Marathon, City of Panora, City of Preston, City of Sibley, City of Stanhope, City of State Center, City of Tipton, City of West Liberty, City of Whittemore, City of Anita, City of Hopkinton, City of Grand Junction, City of Ogden, City of Story City, City of Traer, City of Vinton, the Amana Society Service Company, Amana, and the Board of Directors of the Farmers Electric Cooperative, Kalona, all in Iowa, in entering into, ratifying and confirming an agreement between the Resale Power Group of Iowa and its members dated November 3, 1987 and a certain joint transmission agreement dated November 3, 1987, to have been legally taken.

WHEREAS, proceedings have been taken for the organization of the Resale Power Group of Iowa under the provisions of chapter twenty-eight E (28E) of the Code for the purpose of the purchase, generation, transmission, sale and interchange of electric energy for its members, the establishment of programs for the safety and technical training of employees of its members and to render service relative to the solution of problems relating to rates for electric energy and related items; and

WHEREAS, a copy of the Agreement to Establish the Resale Power Group of Iowa was filed with the Secretary of State of the State on August 8, 1986, has been recorded with the appropriate county recorders and the following public and private agencies operating electric utilities are current members in good standing of the organization: the City of Burt, City of Dike, City of Dysart, City of Long Grove, City of Maquoketa, City of Marathon, City of Panora, City of Preston, City of Sibley, City of Stanhope, City of State Center, City of Tipton, City of West Liberty, City of Whittemore, City of Anita, City of Hopkinton, City of Grand Junction, City of Ogden, City of Story City, City of Traer, City of Vinton, the Amana Society Service Company, Amana, and the Board of Directors of the Farmers Electric Cooperative, Kalona, all in Iowa; and

WHEREAS, the Resale Power Group of Iowa did on November 3, 1987, enter into an agreement with its participating members, which agreement relates to and forms a part of a certain joint transmission agreement (referred to as the "Joint Transmission Agreements"); and

WHEREAS, the Resale Power Group of Iowa has, on behalf of its participating members, entered into a Joint Transmission Agreement, dated November 3, 1987, with Iowa Electric Light and Power Company for the purpose of obtaining undivided ownership in certain transmission facilities thereby obtaining electric energy at reduced costs delivered through such jointly owned transmission facilities; and

WHEREAS, the Resale Power Group of Iowa and all participating members have taken action pursuant to chapters three hundred ninety (390) and twenty-three (23) of the Code as amended, to ratify and confirm the Joint Transmission Agreements pursuant to chapter three hundred ninety (390) of the Code, as amended; and

WHEREAS, the aforementioned documents together now purport to form a joint agreement pursuant to chapter three hundred ninety (390) of the Code, as amended; and

WHEREAS, the aforementioned documents are a cooperative effort between public and private utilities within the state which will result in lower cost power to consumers of electric power; and