

### **34A.7 Funding — wire-line 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. A joint E911 service board shall not commit a political subdivision to appropriate property tax revenues to fund an E911 service plan without the consent of the political subdivision. A joint E911 service board may approve an E911 service plan, including a funding formula requiring appropriations by participating political subdivisions, subject to the approval of the funding formula by each political subdivision. However, a political subdivision may agree in advance to appropriate property tax revenues or other moneys according to a formula or plan developed by an alternative chapter 28E entity.

#### *1. Local wire-line E911 service surcharge imposition.*

a. To encourage local implementation of E911 service, one source of funding for E911 emergency communication systems shall come from a surcharge per month, per access line on each access line subscriber, except as provided in subsection 5, equal to the lowest amount of the following:

(1) One dollar.

(2) An amount less than one dollar, which would fully pay both recurring and nonrecurring costs of the E911 service system within five years from the date the maximum surcharge is imposed.

(3) The maximum monetary limitation approved by referendum.

b. The surcharge shall be imposed by order of the program manager as follows:

(1) The program manager shall notify a local exchange service provider scheduled to provide exchange access line service to an E911 service area that implementation of an E911 service plan has been approved by the joint E911 service board and by the service area referendum and that collection of the surcharge is to begin within sixty days.

(2) The program manager shall also provide notice to all affected public safety answering points.

#### *2. Surcharge collected by local exchange service providers.*

a. 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 local exchange service provider may retain one percent of the gross surcharges collected. If the compensation is insufficient to fully recover a local exchange service provider's costs for billing and collection of the surcharge, the deficiency shall be included in the local exchange service 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 local exchange service provider. The total amount for multiple exchanges may be combined.

b. A local exchange service provider is not liable for an uncollected surcharge for which the local exchange service 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 communications service surcharge".

c. The joint E911 service board may request, not more than once each quarter, the following information from the local exchange service provider:

(1) The identity of the exchange from which the surcharge is collected.

(2) The number of lines to which the surcharge was applied for the quarter.

(3) The number of refusals to pay per exchange if applicable.

(4) Write-offs applied per exchange if applicable.

(5) The number of lines exempt per exchange.

(6) The amount retained by the local exchange service provider generated from the one percent administration fee.

d. Access line counts and surcharge remittances are confidential public records as provided in section 34A.8.

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 program manager, as those terms are defined by section 34A.2.

5. *Use of moneys in fund — priority and limitations on expenditure.*

a. Moneys deposited in the E911 service fund shall be used for the repayment of any bonds issued for the benefit of or loan made to the joint E911 service board pursuant to sections 34A.20 through 34A.22, and as long as any such bond or loan remains unpaid the surcharge shall not be reduced or eliminated. Moneys deposited in the fund shall be subject to such terms and conditions as may be contained in the relevant bond documents, trust indenture, resolution, loan agreement, or other instrument pursuant to which bonds are issued or a loan is made, without regard to any limitation otherwise provided by law. The surcharge may be increased, but shall not exceed the maximum allowed in subsection 1, upon approval of the authority upon such terms and conditions as may be contained in the relevant bond documents, trust indenture, resolution, loan agreement, or other instrument pursuant to which bonds are issued or a loan is made, as deemed necessary or prudent by the authority to secure repayment and assure marketability or a reasonable interest rate.

b. Moneys deposited in the E911 service fund shall be used for the following, in order of priority if paragraph “a” does not apply:

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

(2) 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 program manager.

(3) If money remains in the fund after fully paying obligations under subparagraphs (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 program manager 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 the maximum allowed and the fund surplus is less than twenty-five percent of the approved annual operating budget, the program manager 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. The surcharge may only be adjusted once in a single year, upon sixty 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 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.

7. *Referendum on adjusting maximum of approved surcharge.* If a local option E911 service surcharge was approved by referendum prior to April 4, 1990, the maximum E911 service surcharge monetary limitation may be amended up to a total of one dollar, per month, per access line, by another referendum as provided in section 34A.6. A joint E911 service board may adjust its E911 service surcharge within the monetary limitation approved by referendum as provided under this subsection by a simple majority vote of the voting members. As a result of the adjustment, the E911 service surcharge, per month, per access line, on each access line subscriber, except as provided in subsection 5, shall not exceed the lowest amount of the following:

- a. One dollar.
- b. An amount less than one dollar, which would fully pay both recurring and nonrecurring costs of the E911 service system within five years from the date of the adjustment.

- c. The maximum monetary limitation approved by referendum.

88 Acts, ch 1177, §7

C89, §477B.7

89 Acts, ch 168, §4 – 6; 90 Acts, ch 1144, §2 – 4

C93, §34A.7

98 Acts, ch 1101, §8, 16; 2004 Acts, ch 1175, §450 – 452; 2005 Acts, ch 140, §1; 2012 Acts, ch 1111, §5 – 8

Referred to in §34A.2, 34A.7B

[T] Subsection 1, paragraph a, unnumbered paragraph 1 amended

[T] Subsection 1, paragraph b, subparagraph (1) amended

[T] Subsection 2, paragraph b amended

[T] Subsection 5, paragraph b, subparagraph (3) amended