

House Amendment 8492

Amendment Text

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1 1 Amend [Senate File 530](#), as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:
1 5 "Section 1. Section [16.161](#), Code 1997, is amended
1 6 to read as follows:
1 7 16.161 AUTHORITY TO ISSUE E911 PROGRAM BONDS AND
1 8 NOTES.
1 9 The authority shall assist the

~~department of public~~

1 10

~~defense~~

~~administrator appointed pursuant to section~~

1 11 [34A.2A](#) or as provided in chapter 34A, subchapter II
1 12 and the authority shall have all of the powers
1 13 delegated to it by a joint E911 service board or the
1 14 department of public defense in a chapter 28E
1 15 agreement with respect to the issuance and securing of
1 16 bonds or notes and the carrying out of the purposes of
1 17 chapter 34A.

1 18 Sec. 2. Section [16.161](#), Code 1997, is amended by
1 19 adding the following new unnumbered paragraph:

1 20 NEW UNNUMBERED PARAGRAPH. The authority shall
1 21 provide a mechanism for the pooling of funds of two or
1 22 more joint E911 service boards to be used for the
1 23 joint purchasing of necessary equipment and
1 24 reimbursement of land-line and wireless service
1 25 providers' costs for upgrades necessary to provide
1 26 E911 service. When two or more joint E911 service
1 27 boards have agreed to pool funds for the purpose of
1 28 purchasing necessary equipment to be used in providing
1 29 E911 service, the authority shall issue bonds and
1 30 notes as provided in sections 34A.20 through 34A.22.

1 31 Sec. 3. Section [34A.2](#), subsection 2, Code 1997, is
1 32 amended to read as follows:

1 33 2. "Administrator" means the E911 administrator

~~of~~

1 34

~~the division of emergency management of the department~~

1 35

~~of public defense~~

~~appointed pursuant to section~~

1 36 [34A.2A](#).

1 37 Sec. 4. Section [34A.2](#), subsection 3, Code 1997, is
1 38 amended by striking the subsection.

1 39 Sec. 5. NEW SECTION. 34A.2A ADMINISTRATOR
1 40 APPOINTMENT DUTIES.

1 41 The administrator of the division of emergency
1 42 management of the department of public defense shall

1 43 appoint an E911 administrator to administer this
1 44 chapter. The E911 administrator shall act under the
1 45 supervisory control of the administrator of the
1 46 division of emergency management of the department of
1 47 public defense, and in consultation with the E911
1 48 communications council, and perform the duties
1 49 specifically set forth in this chapter.

1 50 Sec. 6. Section 34A.3, subsection 1, Code 1997, is
2 1 amended to read as follows:

2 2 1. JOINT 911 SERVICE BOARDS TO SUBMIT PLANS. The
2 3 board of supervisors of each county shall establish a
2 4 joint 911 service board not later than January 1,
2 5 1989. Each political subdivision of the state having
2 6 a public safety agency serving territory within the
2 7 county is entitled to voting membership on the joint
2 8 911 service board. Each private safety agency
2 9 operating within the area is entitled to nonvoting
2 10 membership on the board. A township which does not
2 11 operate its own public safety agency, but contracts
2 12 for the provision of public safety services, is not
2 13 entitled to membership on the joint 911 service board,
2 14 but its contractor is entitled to membership according
2 15 to the contractor's status as a public or private
2 16 safety agency. The joint 911 service board shall
2 17 develop an enhanced 911 service plan encompassing at
2 18 minimum the entire county, unless an exemption is
2 19 granted by the administrator permitting a smaller E911
2 20 service area. The administrator may grant a
2 21 discretionary exemption from the single county minimum
2 22 service area requirement based upon an E911 joint
2 23 service board's or other E911 service plan operating
2 24 authority's presentation of evidence which supports
2 25 the requested exemption if the administrator finds
2 26 that local conditions make adherence to the minimum
2 27 standard unreasonable or technically infeasible, and
2 28 that the purposes of this chapter would be furthered
2 29 by granting an exemption. The minimum size
2 30 requirement is intended to prevent unnecessary
2 31 duplication of public safety answering points and
2 32 minimize other administrative, personnel, and
2 33 equipment expenses. An E911 service area must
2 34 encompass a geographically contiguous area. No
2 35 exemption shall be granted from the contiguous area
2 36 requirement. The administrator may order the
2 37 inclusion of a specific territory in an adjoining E911
2 38 service plan area to avoid the creation by exclusion
2 39 of a territory smaller than a single county not
2 40 serviced by surrounding E911 service plan areas upon
2 41 request of the joint 911 service board representing
2 42 the territory. The E911 service plan operating
2 43 authority shall submit the plan on or before January
2 44 1, 1994, to all of the following:

2 45 a. The

~~division~~

~~administrator.~~

2 46 b. Public and private safety agencies in the
2 47 enhanced 911 service area.

2 48 c. Providers affected by the enhanced 911 service
2 49 plan.

2 50 An E911 joint service board that has a state-
3 1 approved service plan in place prior to July 1, 1993,
3 2 is exempt from the provisions of this section. The

3 3

~~division~~

~~administrator shall establish, by July 1,~~

3 4 1994, E911 service plans for those E911 joint service
3 5 boards which do not have a state-approved service plan
3 6 in place on or before January 1, 1994.
3 7 The

~~division~~

- ~~administrator~~ shall prepare a summary
3 8 of the plans submitted and present the summary to the
3 9 legislature on or before August 1, 1994.
3 10 Sec. 7. Section [34A.6](#), subsection 3, Code 1997, is
3 11 amended to read as follows:
3 12 3. The secretary of state, in consultation with
3 13 the administrator

~~of the office of emergency~~

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3 14

~~management of the department of public defense~~

-, shall

3 15 adopt rules for the conduct of joint E911 service
3 16 referendums as required by and consistent with
3 17 subsections 1 and 2.
3 18 Sec. 8. Section [34A.7](#), subsection 6, Code 1997, is
3 19 amended to read as follows:
3 20 6. LIMITATION OF ACTIONS PROVIDER NOT LIABLE ON
3 21 CAUSE OF ACTION RELATED TO PROVISION OF 911 SERVICES.
3 22 A claim or cause of action does not exist based upon
3 23 or arising out of an act or omission in connection
3 24 with a land-line or wireless provider's participation
3 25 in an E911 service plan or provision of 911 or local
3 26 exchange access service, unless the act or omission is
3 27 determined to be willful and wanton negligence.
3 28 Sec. 9. NEW SECTION. 34A.7A WIRELESS
3 29 COMMUNICATIONS SURCHARGE FUND ESTABLISHED
3 30 DISTRIBUTION AND PERMISSIBLE EXPENDITURES.
3 31 1. a. Notwithstanding section 34A.6, the
3 32 administrator shall adopt by rule a monthly surcharge
3 33 of up to fifty cents to be imposed on each wireless
3 34 communications service number provided in this state.
3 35 The surcharge shall be imposed uniformly on a
3 36 statewide basis and simultaneously on all wireless
3 37 communications service numbers as provided by rule of
3 38 the administrator.
3 39 b. The administrator shall provide no less than
3 40 one hundred days' notice of the surcharge to be
3 41 imposed to each wireless communications service
3 42 provider. The administrator, subject to the fifty
3 43 cent limit in paragraph "a", may adjust the amount of
3 44 the surcharge as necessary, but no more than once in
3 45 any calendar year.
3 46 c. The surcharge shall be collected as part of the
3 47 wireless communications service provider's periodic
3 48 billing to a subscriber. In compensation for the
3 49 costs of billing and collection, the provider may
3 50 retain one percent of the gross surcharges collected.
4 1 The surcharges shall be remitted quarterly by the
4 2 provider to the administrator for deposit into the
4 3 fund established in subsection 2. A provider is not
4 4 liable for an uncollected surcharge for which the
4 5 provider has billed a subscriber but which has not
4 6 been paid. The surcharge shall appear as a single
4 7 line item on a subscriber's periodic billing
4 8 indicating that the surcharge is for E911 emergency
4 9 telephone service. The E911 service surcharge is not
4 10 subject to sales or use tax.
4 11 2. Moneys collected pursuant to subsection 1 shall

4 12 be deposited in a separate wireless E911 emergency
4 13 communications fund within the state treasury under
4 14 the control of the administrator. Section 8.33 shall
4 15 not apply to moneys in the fund. Moneys earned as
4 16 income, including as interest, from the fund shall
4 17 remain in the fund until expended as provided in this
4 18 section. Moneys in the fund shall be expended and
4 19 distributed annually as follows:

4 20 a. An amount necessary to be retained by the
4 21 administrator for implementation, support, and
4 22 maintenance of the functions of the administrator.

4 23 b. (1) The administrator shall retain funds
4 24 necessary to reimburse wireless carriers for their
4 25 costs to deliver E911 services. The administrator
4 26 shall assure that wireless carriers recover all
4 27 eligible costs associated with the implementation and
4 28 operation of E911 services, including but not limited
4 29 to hardware, software, and transport costs. The
4 30 administrator shall adopt rules defining eligible
4 31 costs which are consistent with federal law,
4 32 regulations, and any order of a federal agency.

4 33 (2) The administrator shall provide for the
4 34 reimbursement of wireless carriers on a quarterly
4 35 basis. If the total amount of moneys available in the
4 36 fund for the reimbursement of wireless carriers
4 37 pursuant to subparagraph (1) is insufficient to
4 38 reimburse all wireless carriers for such carriers'
4 39 eligible expenses, the administrator shall remit an
4 40 amount to each wireless carrier equal to the
4 41 percentage of such carrier's eligible expenses as
4 42 compared to the total of all eligible expenses for all
4 43 wireless carriers for the calendar quarter during
4 44 which such expenses were submitted.

4 45 c. (1) The remainder of the surcharge collected
4 46 shall be remitted to the administrator for
4 47 distribution to the joint E911 service boards and the
4 48 department of public safety pursuant to subparagraph
4 49 (2) to be used for the implementation of enhanced
4 50 wireless communications capabilities.

5 1 (2) The administrator, in consultation with the
5 2 E911 communications council, shall adopt rules
5 3 pursuant to chapter 17A governing the distribution of
5 4 the surcharge collected and distributed pursuant to
5 5 this lettered paragraph. The rules shall include
5 6 provisions that all joint E911 service boards and the
5 7 department of public safety which answer or service
5 8 wireless E911 calls are eligible to receive an
5 9 equitable portion of the receipts.

5 10 A joint E911 service board or the department of
5 11 public safety, to receive funds from the E911
5 12 emergency communications fund, must submit a written
5 13 request for such funds to the administrator in a form
5 14 as approved by the administrator. A request shall be
5 15 for funding under an approved E911 service plan for
5 16 equipment which is directly related to the reception
5 17 and disposition of incoming wireless E911 calls. The
5 18 administrator may approve the distribution of funds
5 19 pursuant to such request if the administrator finds
5 20 that the requested funding is for equipment necessary
5 21 for the reception and disposition of such calls and
5 22 that sufficient funds are available for such
5 23 distribution.

5 24 If insufficient funds are available to fund all
5 25 requests, the administrator shall fund requests in an
5 26 order deemed appropriate by the administrator after
5 27 considering factors including, but not limited to, all
5 28 of the following:

5 29 (a) Documented volume of wireless E911 calls
5 30 received by each public safety answering point.
5 31 (b) The population served by each public safety
5 32 answering point.
5 33 (c) The number of wireless telephones in the
5 34 public safety answering point jurisdiction.
5 35 (d) The public safety of the citizens of this
5 36 state.
5 37 (e) Any other factor deemed appropriate by the
5 38 administrator, in consultation with the E911
5 39 communications council, and adopted by rule.
5 40 (3) The administrator shall submit an annual
5 41 report by January 15 of each year advising the general
5 42 assembly of the status of E911 implementation and
5 43 operations, including both land-line and wireless
5 44 services, and the distribution of surcharge receipts.
5 45 3. The amount collected from a wireless service
5 46 provider and deposited in the fund, pursuant to
5 47 section 22.7, subsection 6, information provided by a
5 48 wireless service provider to the administrator
5 49 consisting of trade secrets, pursuant to section 22.7,
5 50 subsection 3, and other financial or commercial
6 1 operations information provided by a wireless service
6 2 provider to the administrator, shall be kept
6 3 confidential as provided under section 22.7. This
6 4 subsection does not prohibit the inclusion of
6 5 information in any report providing aggregate amounts
6 6 and information which does not identify numbers of
6 7 accounts or customers, revenues, or expenses
6 8 attributable to an individual wireless communications
6 9 service provider.
6 10 4. For purposes of this section, "wireless
6 11 communications service" means commercial mobile radio
6 12 service, as defined under sections 3(27) and 332(d) of
6 13 the federal Telecommunications Act of 1996, 47 U.S.C.
6 14 } 151 et seq.; federal communications commission
6 15 rules, and the Omnibus Budget Reconciliation Act of
6 16 1993. "Wireless communications service" includes any
6 17 wireless two-way communications used in cellular
6 18 telephone service, personal communications service, or
6 19 the functional or competitive equivalent of a radio-
6 20 telephone communications line used in cellular
6 21 telephone service, a personal communications service,
6 22 or a network access line. "Wireless communications
6 23 service" does not include services whose customers do
6 24 not have access to 911 or a 911-like service, a
6 25 communications channel utilized only for data
6 26 transmission, or a private telecommunications system.
6 27 Sec. 10. Section [34A.15](#), subsection 1, unnumbered
6 28 paragraph 1, Code 1997, is amended to read as follows:
6 29 An E911 communications council is established. The
6 30 council consists of the following

~~eleven~~

~~thirteen~~

6 31 members:
6 32 Sec. 11. Section [34A.15](#), subsection 1, Code 1997,
6 33 is amended by adding the following new paragraph:
6 34 NEW PARAGRAPH. k. Two persons appointed by the
6 35 Iowa wireless industry. One appointee shall represent
6 36 cellular companies and the other appointee shall
6 37 represent personal communications services companies.
6 38 Sec. 12. Section [34A.15](#), Code 1997, is amended by
6 39 adding the following new subsections:
6 40 NEW SUBSECTION. 2A. A member of the council shall
6 41 be reimbursed for actual and necessary expenses
6 42 incurred in the performance of the member's duties, if

6 43 such member is not otherwise reimbursed for such
6 44 expenses.
6 45 Sec. 13. Section [34A.20](#), subsection 2, Code 1997,
6 46 is amended to read as follows:
6 47 2. The authority shall cooperate with the
6 48

~~department of public defense~~
- ~~administrator~~ in the

6 49 creation, administration, and funding of the E911
6 50 program established in subchapter I.

7 1 Sec. 14. TRANSITION PROVISIONS.

7 2 1. The E911 administrator appointed pursuant to
7 3 section 34A.2A, as enacted in this Act, shall be
7 4 appointed by no later than July 1, 1998. The E911
7 5 administrator shall determine and implement an initial
7 6 surcharge as soon as possible, but at a minimum such
7 7 surcharge shall be determined and implemented by no
7 8 later than January 1, 1999.

7 9 2. Notwithstanding the distribution formula in
7 10 section 34A.7A, as enacted in this Act, and prior to
7 11 any such distribution, of the initial surcharge moneys
7 12 received by the E911 administrator and deposited into
7 13 the wireless E911 emergency communications fund, for
7 14 the fiscal year beginning July 1, 1998, and ending
7 15 June 30, 1999, an amount shall be transferred to the
7 16 division of emergency management of the department of
7 17 public defense as necessary to reimburse the division
7 18 for amounts expended for the implementation, support,
7 19 and maintenance of the E911 administrator, including
7 20 the E911 administrator's salary.

7 21 3. a. Notwithstanding the distribution formula in
7 22 section 34A.7A, as enacted in this Act, and after the
7 23 distribution provided for in subsection 2 of this
7 24 section and prior to any other distribution pursuant
7 25 to section 34A.7A, of the surcharge moneys received by
7 26 the E911 administrator and deposited into the wireless
7 27 E911 emergency communications fund, for the fiscal
7 28 year beginning July 1, 1998, and ending June 30, 1999,
7 29 an amount not to exceed eighty thousand dollars shall
7 30 be transferred to the Iowa law enforcement academy to
7 31 be used for implementation, maintenance, and support
7 32 of telecommunicator training. For purposes of this
7 33 paragraph, the total amount transferred includes any
7 34 amounts transferred to the Iowa law enforcement
7 35 academy under paragraph "b".

7 36 b. The Iowa law enforcement academy shall begin as
7 37 soon as practicable the telecommunicator training as
7 38 provided in this subsection. If the academy expends
7 39 funds on or after July 1, 1998, for telecommunicator
7 40 training and prior to the imposition of the surcharge
7 41 under section 34A.7A, the E911 administrator, subject
7 42 to the limit of eighty thousand dollars in paragraph
7 43 "a", shall transfer from the wireless E911 emergency
7 44 communications fund to the Iowa law enforcement
7 45 academy an amount necessary to reimburse the academy
7 46 for such amounts expended by the academy. The E911
7 47 administrator and the Iowa law enforcement academy
7 48 shall provide a written report to the fiscal committee
7 49 of the legislative council and to the legislative
7 50 fiscal bureau regarding amounts expended by the
8 1 academy and reimbursed by the E911 administrator
8 2 pursuant to this section.

8 3 c. The Iowa law enforcement academy, for
8 4 telecommunicator training for fiscal years beginning
8 5 on and after July 1, 1999, shall submit requests for
8 6 funding through the general assembly's appropriation

8 7 process in the same manner as the academy submits
8 8 requests for other general fund appropriations.
8 9 4. a. The department of public defense is
8 10 authorized two additional full-time equivalent
8 11 positions for the purpose of implementing the
8 12 amendments to chapter 34A in this Act. Included in
8 13 these two full-time equivalent positions is the E911
8 14 administrator appointed pursuant to section 34A.2A, as
8 15 enacted in this Act.

8 16 b. The Iowa law enforcement academy is authorized
8 17 one and one-half additional full-time equivalent
8 18 positions for the purpose of implementing
8 19 telecommunicator training as provided for in this Act.

8 20 Sec. 15. EFFECTIVE DATE. This Act, being deemed
8 21 of immediate importance, takes effect upon enactment."
8 22 #2. Title page, line 4, by inserting after the
8 23 word "system" the following: ", and providing an
8 24 effective date".

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8 28 COMMITTEE ON [COMMERCE AND REGULATION](#)

8 29 METCALF of Polk, Chairperson

8 30 [SF 530.207](#) 77

8 31 mj/jl/28