

Senate Study Bill 3170 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act relating to enhanced 911 emergency communication
2 systems, including surcharges and the allocation of moneys
3 collected from such surcharges.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 34A.2, Code 2011, is amended to read as
2 follows:

3 **34A.2 Definitions.**

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

6 1. *"Access line"* means an exchange access line that has the
7 ability to access dial tone and reach a public safety answering
8 point.

9 2. *"Administrator"* means the administrator of the homeland
10 security and emergency management division of the department
11 of public defense.

12 3. *"Communications service"* means a service capable
13 of accessing, connecting with, or interfacing with a 911
14 system by dialing, initializing, or otherwise activating
15 the system exclusively through the digits 911 by means of a
16 local telephone device, cellular telephone device, wireless
17 communications device, or alternative means to be designated by
18 the homeland security and emergency management division of the
19 department of public defense by rule.

20 4. *"Communications service provider"* means a service
21 provider, public or private, that transports information
22 electronically via landline, wireless, internet, cable, or
23 satellite.

24 ~~3.~~ 5. *"Competitive local exchange service provider"* means
25 the same as defined in section 476.96.

26 ~~4.~~ *"Emergency 911 notification device"* means a product
27 ~~capable of accessing a public safety answering point through~~
28 ~~the 911 system.~~

29 6. *"Emergency communications service surcharge"* means a
30 charge established by the program manager in accordance with
31 section 34A.7A.

32 ~~5.~~ 7. *"Enhanced 911"* or *"E911"* means a service that
33 provides the user of a communications service with the ability
34 to reach a public safety answering point by ~~dialing~~ using the
35 digits 911, and that has the following additional features:

1 a. Routes an incoming 911 call to the appropriate public
2 safety answering point.

3 b. Automatically provides voice, displays the name, address
4 or location, and telephone number of an incoming 911 call and
5 public safety agency servicing the location.

6 ~~6-~~ 8. "*Enhanced 911 service area*" means the geographic
7 area to be serviced, or currently serviced under an enhanced
8 911 service plan, provided that an enhanced 911 service area
9 must at minimum encompass one entire county. The enhanced 911
10 service area may encompass more than one county, and need not
11 be restricted to county boundaries.

12 ~~7-~~ 9. "*Enhanced 911 service plan*" means a plan that
13 includes the following information:

14 a. A description of the enhanced 911 service area.

15 b. A list of all public and private safety agencies within
16 the enhanced 911 service area.

17 c. The number of public safety answering points within the
18 enhanced 911 service area.

19 d. Identification of the agency responsible for management
20 and supervision of the enhanced 911 emergency communication
21 system.

22 e. (1) A statement of estimated costs to be incurred by the
23 joint E911 service board or the department of public safety,
24 including separate estimates of the following:

25 (a) Nonrecurring costs, including ~~7~~ but not limited to ~~7~~
26 public safety answering points, network equipment, software,
27 database, addressing, ~~initial~~ training, and other capital and
28 ~~start-up~~ expenditures, including the purchase or lease of
29 subscriber names, addresses, and telephone information from the
30 local exchange service provider.

31 (b) Recurring costs, including ~~7~~ but not limited to ~~7~~ network
32 access fees and other telephone charges, software including
33 mass notification systems, equipment, and database management,
34 and maintenance, including the purchase or lease of subscriber
35 names, addresses, and telephone information from the local

1 exchange service provider. Recurring costs shall not include
2 personnel costs for a public safety answering point.

3 (2) Funds deposited in an E911 service fund are appropriated
4 and shall be used for the payment of costs that are limited
5 to nonrecurring and recurring costs directly attributable to
6 the ~~provision~~ receipt and disposition of the 911 emergency
7 ~~telephone communication service call~~ and may include costs
8 for portable and vehicle radios, communication towers
9 and associated equipment, and other radios and associated
10 equipment permanently located at the public safety answering
11 point and as directed by either the joint E911 service board
12 or the department of public safety. Costs do not include
13 expenditures for any other purpose, and specifically exclude
14 costs attributable to other emergency services or expenditures
15 for buildings or personnel, except for the costs of personnel
16 for database management and personnel directly associated with
17 addressing.

18 f. Current equipment operated by affected local exchange
19 service providers, and central office equipment and technology
20 upgrades necessary for the provider to implement enhanced 911
21 service within the enhanced 911 service area.

22 g. A schedule for implementation of the plan throughout
23 the E911 service area. The schedule may provide for phased
24 implementation.

25 h. The number of telephone access lines capable of access to
26 911 in the enhanced 911 service area.

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

29 ~~8-~~ 10. "Local exchange carrier" means the same as defined
30 in section 476.96.

31 ~~9-~~ 11. "Local exchange service provider" means a vendor
32 engaged in providing telecommunications service between
33 points within an exchange and includes but is not limited to
34 a competitive local exchange service provider and a local
35 exchange carrier.

1 ~~10.~~ 12. "*Program manager*" means the E911 program manager
2 appointed pursuant to section 34A.2A.

3 ~~11.~~ 13. "*Provider*" means a vendor who provides, or offers
4 to provide, E911 equipment, installation, maintenance, or
5 exchange access services within the enhanced 911 service area.

6 ~~12.~~ 14. "*Public or private safety agency*" means a unit of
7 state or local government, a special purpose district, or a
8 private firm which provides or has the authority to provide
9 fire fighting, police, ambulance, emergency medical services,
10 or hazardous materials response.

11 ~~13.~~ 15. "*Public safety answering point*" means a
12 twenty-four-hour public safety communications facility that
13 receives enhanced 911 service calls and directly dispatches
14 emergency response services or relays calls to the appropriate
15 public or private safety agency.

16 16. "*Wireless communications service*" means commercial
17 mobile radio service, as defined under sections 3(27) and
18 332(d) of the federal Telecommunications Act of 1996, 47 U.S.C.
19 § 151 et seq.; federal communications commission rules; and
20 the federal Omnibus Budget Reconciliation Act of 1993, Pub.
21 L. No. 103-66. "*Wireless communications service*" includes any
22 wireless two-way communications used in cellular telephone
23 service, personal communications service, or the functional or
24 competitive equivalent of a radio-telephone communications line
25 used in cellular telephone service, a personal communications
26 service, or a network access line. "*Wireless communications*
27 service" does not include a service whose customers do not
28 have access to 911 or 911-like service, a communications
29 channel utilized only for data transmission, or a private
30 telecommunications system.

31 17. "*Wireless communications service provider*" means a
32 company that offers wireless communications service to users
33 of wireless devices including but not limited to cellular,
34 personal communications services, mobile satellite services,
35 and enhanced specialized mobile radio.

1 ~~14.~~ 18. *"Wireless E911 phase 1"* means a 911 call made
2 from a wireless device in which the wireless service provider
3 delivers the call-back number and address of the tower that
4 received the call to the appropriate public safety answering
5 point.

6 ~~15.~~ 19. *"Wireless E911 phase 2"* means a 911 call made
7 from a wireless device in which the wireless service provider
8 delivers the call-back number and the latitude and longitude
9 coordinates of the wireless device to the appropriate public
10 safety answering point.

11 ~~16.~~ 20. *"Wire-line E911 service surcharge"* ~~is~~ means a charge
12 set by the E911 service area operating authority and assessed
13 on each wire-line access line which physically terminates
14 within the E911 service area in accordance with section 34A.7.

15 Sec. 2. Section 34A.3, subsection 4, Code 2011, is amended
16 to read as follows:

17 4. *Participation in joint E911 service board required.* A
18 political subdivision ~~or state agency~~ having a public safety
19 agency within its territory or jurisdiction shall participate
20 in a joint E911 service board and cooperate in maintaining the
21 E911 service plan.

22 Sec. 3. Section 34A.6, subsection 1, Code 2011, is amended
23 to read as follows:

24 1. Before a joint E911 service board may request imposition
25 of the wire-line surcharge by the program manager, the board
26 shall submit the following question to voters, as provided
27 in subsection 2, in the proposed E911 service area, and the
28 question shall receive a favorable vote from a simple majority
29 of persons submitting valid ballots on the following question
30 within the proposed E911 service area:

31 Shall the following public measure be adopted?

32 YES ...

33 NO ...

34 Enhanced 911 emergency telephone service shall be funded,
35 in whole or in part, by a monthly surcharge of (an amount

1 determined by the local joint E911 service board of up to one
2 dollar) on each telephone access line collected as part of each
3 telephone subscriber's monthly phone bill if provided within
4 (description of the proposed E911 service area).

5 Sec. 4. Section 34A.6A, Code 2011, is amended to read as
6 follows:

7 **34A.6A Alternative surcharge.**

8 Notwithstanding section 34A.6, the board may request
9 imposition of a wire-line surcharge in an amount up to two
10 dollars and fifty cents per month on each telephone access
11 line. The board shall submit the question of the surcharge
12 to voters in the same manner as provided in section 34A.6.
13 If approved, the surcharge may be collected for a period of
14 twenty-four months. At the end of the twenty-four-month
15 period, the rate of the surcharge shall revert to one dollar
16 per month, per access line.

17 Sec. 5. Section 34A.7, subsection 1, paragraph a,
18 unnumbered paragraph 1, Code 2011, is amended to read as
19 follows:

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

25 Sec. 6. Section 34A.7, subsection 2, paragraph b, Code 2011,
26 is amended to read as follows:

27 *b.* A local exchange service provider is not liable for an
28 uncollected surcharge for which the local exchange service
29 provider has billed a subscriber but not been paid. The
30 surcharge shall appear as a single line item on a subscriber's
31 periodic billing entitled, "E911 emergency ~~telephone~~
32 communications service surcharge".

33 Sec. 7. Section 34A.7A, Code 2011, is amended to read as
34 follows:

35 **34A.7A Wireless Emergency communications service surcharge —**

1 fund established — distribution and permissible expenditures.

2 1. a. Notwithstanding section 34A.6, the administrator
3 shall adopt by rule a monthly surcharge of up to sixty-five
4 cents to be imposed on each ~~wireless~~ communications service
5 number provided in this state. The surcharge shall be imposed
6 uniformly on a statewide basis and simultaneously on all
7 ~~wireless~~ communications service numbers as provided by rule
8 of the administrator. The surcharge shall not be imposed on
9 wire-line-based communications.

10 b. The program manager shall provide no less than one
11 hundred days' notice of the surcharge to be imposed to each
12 ~~wireless~~ communications service provider. The program manager,
13 subject to the sixty-five cent limit in paragraph "a", may
14 adjust the amount of the surcharge as necessary, but no more
15 than once in any calendar year.

16 c. (1) The surcharge shall be collected as part of the
17 ~~wireless~~ communications service provider's periodic billing
18 to a subscriber. The surcharge shall appear as a single
19 line item on a subscriber's periodic billing indicating that
20 the surcharge is for E911 emergency ~~telephone~~ communications
21 service. In the case of a prepaid wireless telephone
22 communications service or device, this surcharge shall be
23 remitted based upon the address associated with the point
24 of purchase, the customer billing address, or the location
25 associated with the mobile ~~telephone number~~ device for each
26 active prepaid wireless ~~telephone~~ device that has a sufficient
27 positive balance as of the last days of the information, if
28 that information is available.

29 (2) In compensation for the costs of billing and collection,
30 the ~~wireless~~ communications service provider may retain one
31 percent of the gross surcharges collected.

32 (3) The surcharges shall be remitted quarterly by the
33 ~~wireless~~ communications service provider to the program manager
34 for deposit into the fund established in subsection 2.

35 (4) A ~~wireless~~ communications service provider is not

1 liable for an uncollected surcharge for which the ~~wireless~~
2 communications service provider has billed a subscriber but
3 which has not been paid.

4 2. Moneys collected pursuant to subsection 1 shall be
5 deposited in a separate ~~wireless~~ E911 emergency communications
6 fund within the state treasury under the control of the program
7 manager. Section 8.33 shall not apply to moneys in the fund.
8 Moneys earned as income, including as interest, from the fund
9 shall remain in the fund until expended as provided in this
10 section. Moneys in the fund shall be expended and distributed
11 in the following priority order:

12 a. An amount as appropriated by the general assembly to
13 the administrator shall be allocated to the administrator and
14 program manager for implementation, support, and maintenance of
15 the functions of the administrator and program manager and to
16 employ the auditor of state to perform an annual audit of the
17 ~~wireless~~ E911 emergency communications fund.

18 b. The program manager shall allocate twenty-one percent of
19 the total amount of surcharge generated to wireless carriers
20 to recover their costs to deliver wireless E911 phase 1
21 services. If the allocation in this paragraph is insufficient
22 to reimburse all wireless carriers for such carrier's eligible
23 expenses, the program manager shall allocate a prorated amount
24 to each wireless carrier equal to the percentage of such
25 carrier's eligible expenses as compared to the total of all
26 eligible expenses for all wireless carriers for the calendar
27 quarter during which such expenses were submitted. When
28 prorated expenses are paid, the remaining unpaid expenses shall
29 no longer be eligible for payment under this paragraph.

30 c. The program manager shall reimburse ~~wire-line carriers~~
31 communication service providers on a calendar quarter basis for
32 carriers' eligible expenses for transport costs between the
33 selective router and the public safety answering points related
34 to the delivery of wireless E911 phase 1 services.

35 d. The program manager shall reimburse wire-line

1 carriers and third-party E911 automatic location information
2 database providers on a calendar quarterly basis for the
3 costs of maintaining and upgrading the E911 components and
4 functionalities beyond the input to the E911 selective router,
5 including the E911 selective router and the automatic location
6 information database.

7 ~~e. The program manager shall apply an amount up to~~
8 ~~five hundred thousand dollars per calendar quarter to any~~
9 ~~outstanding wireless E911 phase 1 obligations incurred pursuant~~
10 ~~to this chapter prior to July 1, 2004.~~

11 ~~f. e. (1) The program manager shall allocate an amount up~~
12 ~~to one hundred fifty-nine thousand dollars per calendar quarter~~
13 ~~equally to the joint E911 service boards and the department of~~
14 ~~public safety that have submitted an annual written request to~~
15 ~~the program manager in a form approved by the program manager~~
16 ~~by May 15 of each year. The program manager shall allocate to~~
17 ~~each joint E911 service board and to the department of public~~
18 ~~safety a minimum of one thousand dollars per calendar quarter~~
19 ~~for each public safety answering point within the service area~~
20 ~~of the department of public safety or joint E911 service board~~
21 ~~that has submitted an annual written request to the program~~
22 ~~manager in a form approved by the program manager by May 15 of~~
23 ~~each year.~~

24 ~~(2) Upon retirement of outstanding obligations referred to~~
25 ~~in paragraph "e", the The amount allocated under this paragraph~~
26 ~~"f" "e" shall be twenty-five percent of the total amount of~~
27 ~~surcharge generated per calendar quarter allocated as follows:~~

28 (a) Sixty-five percent of the total dollars available for
29 allocation shall be allocated in proportion to the square miles
30 of the service area to the total square miles in this state.

31 (b) Thirty-five percent of the total dollars available for
32 allocation shall be allocated in proportion to the wireless
33 E911 calls taken at the public safety answering point in
34 the service area to the total number of wireless E911 calls
35 originating in this state.

1 (c) Notwithstanding subparagraph divisions (a) and (b), the
2 minimum amount allocated to each joint E911 service board and
3 to the department of public safety shall be no less than one
4 thousand dollars for each public safety answering point within
5 the service area of the department of public safety or joint
6 E911 service board.

7 (3) The funds allocated in this paragraph ~~"f"~~ "e" shall
8 be used for communication equipment located inside the public
9 safety answering points for the implementation and maintenance
10 of ~~wireless E911 phase 2~~ services. ~~The joint E911 service~~
11 ~~boards and the department of public safety shall provide an~~
12 ~~estimate of phase 2 implementation costs to the program manager~~
13 ~~by January 1, 2005.~~

14 ~~g.~~ f. If moneys remain in the fund after fully paying
15 all obligations under paragraphs "a" through ~~"f"~~ "e", the
16 remainder may be accumulated in the fund as a carryover
17 operating surplus. This surplus shall be used to fund
18 future ~~phase 2~~ network and public safety answering point
19 improvements, including hardware and software for an internet
20 protocol-enabled next generation network, and wireless
21 carriers' transport costs related to wireless E911 services, if
22 those costs are not otherwise recovered by wireless carriers
23 through customer billing or other sources and approved by the
24 program manager. Notwithstanding section 8.33, any moneys
25 remaining in the fund at the end of each fiscal year shall
26 not revert to the general fund of the state but shall remain
27 available for the purposes of the fund.

28 ~~h.~~ g. The administrator, in consultation with the program
29 manager and the E911 communications council, shall adopt
30 rules pursuant to chapter 17A governing the distribution of
31 the surcharge collected and distributed pursuant to this
32 subsection. The rules shall include provisions that all joint
33 E911 service boards and the department of public safety which
34 answer or service wireless E911 calls are eligible to receive
35 an equitable portion of the receipts.

1 3. a. The program manager shall submit an annual
2 report by January 15 of each year to the general assembly's
3 standing committees on government oversight advising the
4 general assembly of the status of E911 implementation and
5 operations, including both wire-line and wireless services, the
6 distribution of surcharge receipts, and an accounting of the
7 revenues and expenses of the E911 program.

8 b. The program manager shall submit a calendar quarter
9 report of the revenues and expenses of the E911 program to the
10 fiscal services division of the legislative services agency.

11 c. The general assembly's standing committees on government
12 oversight shall review the priorities of distribution of funds
13 under this chapter at least every two years.

14 4. The amount collected from a wireless communications
15 service provider and deposited in the fund, pursuant to
16 section 22.7, subsection 6, information provided by a wireless
17 communications service provider to the program manager
18 consisting of trade secrets, pursuant to section 22.7,
19 subsection 3, and other financial or commercial operations
20 information provided by a wireless communications service
21 provider to the program manager, shall be kept confidential as
22 provided under section 22.7. This subsection does not prohibit
23 the inclusion of information in any report providing aggregate
24 amounts and information which does not identify numbers of
25 accounts or customers, revenues, or expenses attributable to an
26 individual wireless communications service provider.

27 ~~5. For purposes of this section, "wireless communications~~
28 ~~service" means commercial mobile radio service, as defined under~~
29 ~~sections 3(27) and 332(d) of the federal Telecommunications~~
30 ~~Act of 1996, 47 U.S.C. § 151 et seq.; federal communications~~
31 ~~commission rules; and the Omnibus Budget Reconciliation~~
32 ~~Act of 1993. "Wireless communications service" includes any~~
33 ~~wireless two-way communications used in cellular telephone~~
34 ~~service, personal communications service, or the functional or~~
35 ~~competitive equivalent of a radio-telephone communications line~~

1 ~~used in cellular telephone service, a personal communications~~
2 ~~service, or a network access line. "Wireless communications~~
3 ~~service" does not include services whose customers do not~~
4 ~~have access to 911 or a 911-like service, a communications~~
5 ~~channel utilized only for data transmission, or a private~~
6 ~~telecommunications system.~~

7 Sec. 8. Section 34A.15, subsection 1, paragraph c, Code
8 Supplement 2011, is amended to read as follows:

9 c. One person appointed by the Iowa ~~association of chiefs of~~
10 ~~police and peace officers~~ association.

11 EXPLANATION

12 This bill makes several changes regarding the provisions of
13 Code chapter 34A, relating to enhanced 911 emergency telephone
14 systems.

15 The bill modifies definitions applicable to the Code
16 chapter. The bill provides that a "communications service"
17 means a service capable of accessing, connecting with, or
18 interfacing with a 911 system by dialing, initializing, or
19 otherwise activating the system exclusively through the digits
20 911 by means of a local telephone device, cellular telephone
21 device, wireless communications device, or alternative means to
22 be designated by the homeland security and emergency management
23 division of the department of public safety by rule.

24 The bill provides that a "communications service provider"
25 means a service provider, public or private, that transports
26 information electronically via landline, wireless, internet,
27 cable, or satellite. The bill changes references to the
28 wireless communications surcharge contained in Code section
29 34A.7A to an "emergency communications service surcharge",
30 and adds a definition accordingly which references that Code
31 section.

32 The bill adds a definition of "wireless communications
33 service" to mean commercial mobile radio service, as defined
34 under specified federal legislation and rules, including any
35 wireless two-way communications used in cellular telephone

1 service, personal communications service, or the functional or
2 competitive equivalent of a radio-telephone communications line
3 used in cellular telephone service, a personal communications
4 service, or a network access line, and not including a service
5 whose customers do not have access to 911 or 911-like service,
6 a communications channel utilized only for data transmission,
7 or a private telecommunications system. The bill also adds a
8 definition of "wireless communications service provider" to
9 mean a company that offers commercial mobile radio service to
10 users of wireless devices including but not limited to cellular
11 telephone services, personal communications services, mobile
12 satellite services, and enhanced specialized mobile radio. The
13 bill deletes a definition of "wireless communications service"
14 currently contained in Code section 34A.7A, subsection 5, as
15 being encompassed within the definitions added by the bill,
16 and also deletes a definition of "emergency 911 notification
17 device" which is not currently referred to within the Code
18 chapter.

19 The bill deletes a requirement that a state agency having
20 a public safety agency within its territory or jurisdiction
21 must participate in a joint E911 service board and cooperate in
22 maintaining the E911 service plan, but retains that requirement
23 with reference to political subdivisions.

24 The bill adds references to "wire-line" surcharges with
25 respect to the surcharges contained in Code sections 34A.6 and
26 34A.6A, to clarify that they apply to wire-line, rather than
27 wireless, communications and to promote consistency with the
28 local wire-line E911 service surcharge imposed pursuant to Code
29 section 34A.7. The bill deletes references to "telephone"
30 communications systems and surcharges contained in Code section
31 34A.7, in favor of the broader "emergency" communication
32 systems and surcharges.

33 The bill specifies that the emergency communication services
34 surcharge contained in Code section 34A.7A shall not be imposed
35 on wire-line-based communications, deletes references to

1 "telephone" devices and services contained in the Code section,
2 and deletes references to "wireless" communications service
3 providers and the "wireless" E911 emergency communications
4 fund. The bill deletes a requirement that up to \$500,000
5 per calendar quarter of surcharge funds shall be applied to
6 specified outstanding wireless E911 phase 1 obligations;
7 deletes a requirement that up to \$159,000 per calendar quarter
8 shall be allocated equally to joint E911 service boards and the
9 department of public safety if annual written request forms
10 have been submitted; and qualifies that an allocation to each
11 service board and the department of public safety of a minimum
12 of \$1,000 per calendar quarter for each public safety answering
13 point must be pursuant to an annual written request. The bill
14 adds hardware and software for an internet protocol-enabled
15 next generation network to permissible uses of carryover
16 operating surplus moneys.

17 The bill additionally changes a current reference to the
18 Iowa association of chiefs of police and peace officers to the
19 Iowa peace officers association regarding appointments to the
20 E911 communications council.