

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 993

FINAL READING

Introduced by Friesen, 34; Brewer, 43; Wayne, 13; Geist, 25.

Read first time January 11, 2018

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to 911 service; to amend sections 86-442,
2 86-459, 86-462, 86-465, 86-466, and 86-904, Reissue Revised Statutes
3 of Nebraska, and sections 86-458, 86-1001, 86-1004, 86-1025,
4 86-1026, 86-1027, and 86-1028, Revised Statutes Cumulative
5 Supplement, 2016; to define a term; to create and provide duties for
6 the 911 Service System Advisory Committee; to change and provide
7 duties for the Public Service Commission; to change provisions
8 relating to use of the 911 Service System Fund; to provide authority
9 for access to federal and other funds; to provide immunity to
10 certain service providers and the Public Service Commission as
11 prescribed; to eliminate a fund, a study, and a termination date; to
12 harmonize provisions; to repeal the original sections; to outright
13 repeal sections 86-443.01 and 86-471, Reissue Revised Statutes of
14 Nebraska, section 86-1030, Revised Statutes Cumulative Supplement,
15 2016, and section 86-463, Revised Statutes Supplement, 2017; and to
16 declare an emergency.
17 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-442, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 86-442 Sections 86-442 to 86-470 ~~86-471~~ shall be known and may be
4 cited as the Enhanced Wireless 911 Services Act.

5 Sec. 2. Section 86-458, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 86-458 The commission shall hold a public hearing annually to
8 determine the amount of revenue necessary to carry out the Enhanced
9 Wireless 911 Services Act and the 911 Service System Act. After the
10 hearing, the commission shall determine the amount of money to be
11 deposited in the ~~Enhanced Wireless 911 Service System~~ Fund for the
12 following year and shall set the surcharge subject to the limitation in
13 section 86-457.

14 Sec. 3. Section 86-459, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 86-459 (1) Each wireless carrier shall remit monthly to the
17 commission the amounts collected pursuant to section 86-457 together with
18 any forms required by the commission no later than sixty days after the
19 last day of the month. The commission shall remit the funds to the State
20 Treasurer for credit to the ~~Enhanced Wireless 911 Service System~~ Fund.

21 (2) As the commission may require, each wireless carrier, except a
22 wireless carrier whose users have no 911 service, shall report to the
23 commission on a quarterly basis for each county in a manner prescribed by
24 the commission the following information: (a) The number of telephone
25 numbers or functional equivalents served; (b) the number of telephone
26 numbers or functional equivalents from which it has collected surcharge
27 revenue; (c) the number of wireless towers by county; and (d) the current
28 implementation status of enhanced wireless 911 service in each county
29 served by that wireless carrier.

30 (3) The wireless carrier shall maintain all records required by this
31 section, records of the amounts collected pursuant to section 86-457, and

1 remittance records for a period of five years after the date of
2 remittance to the fund. The commission may require an audit of any
3 wireless carrier's books and records concerning the collection and
4 remittance of any amounts collected pursuant to the Enhanced Wireless 911
5 Services Act. The costs of any audit required by the commission shall, at
6 the commission's discretion, be paid by the audited wireless carrier. A
7 wireless carrier shall not be required to pay for more than one
8 remittance audit or more than one collection audit per year, unless the
9 commission orders subsequent audits for good cause.

10 (4) Each wireless carrier shall comply with all commission rules and
11 regulations regarding enhanced wireless 911 service.

12 (5) Each wireless carrier shall comply with this section regardless
13 of whether the wireless carrier receives reimbursement from the fund.
14 Wireless carriers failing to comply with this section may be
15 administratively fined by the commission pursuant to section 75-156.

16 Sec. 4. Section 86-462, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 86-462 (1) The advisory board shall make recommendations to the
19 commission regarding the implementation of the Enhanced Wireless 911
20 Services Act, including:

21 (a) The allocation of funds from the ~~Enhanced Wireless 911 Service~~
22 System Fund as specified in section 86-465;

23 (b) Rules and regulations necessary to carry out the act;

24 (c) Any adjustments in the surcharge amount to recommend to the
25 Legislature; and

26 (d) The resolution of any disputes between public safety answering
27 points and wireless carriers.

28 (2) The commission may approve and implement any recommendations of
29 the advisory board.

30 Sec. 5. Section 86-465, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 86-465 (1) The commission shall, in consultation with the advisory
2 board:

3 (a) Determine the costs to implement wireless automatic location
4 identification;

5 (b) Determine the level of funding needed to trigger disbursements
6 pursuant to the Enhanced Wireless 911 Services Act;

7 (c) Determine the percentage of the 911 Service System Fund ~~fund~~ to
8 be allocated to each funding purpose, including the percentage that shall
9 be designated for funding 911 service under subdivision (2)(c) of this
10 section;

11 (d) Determine how the funds distributed under subdivisions (2)(a)
12 and (2)(c) of this section are to be allocated among the wireless
13 carriers and the public safety answering points; and

14 (e) Establish a mechanism for determining the level of funding
15 available to each public safety answering point and wireless carrier for
16 costs determined to be eligible by the commission under subsection (2) of
17 this section.

18 (2) The commission shall, in consultation with the advisory board,
19 establish eligibility standards and criteria for ~~fund—disbursement~~
20 applications for disbursements from the 911 Service System Fund and
21 standards and criteria concerning the level of fund disbursement for each
22 application. In establishing such criteria and standards, the following
23 purposes may be eligible for funding:

24 (a) Costs incurred or to be incurred by wireless carriers to
25 implement enhanced wireless 911 service pursuant to a service agreement
26 with a public safety answering point or pursuant to a request for service
27 from a public safety answering point. Such costs may include, but not be
28 limited to, the portion of the costs for new equipment used for providing
29 enhanced wireless 911 service, costs to lease another vendor's equipment
30 or services to provide enhanced wireless 911 service, costs to create or
31 maintain any data base or data base elements used solely for enhanced

1 wireless 911 service, and other costs of establishing enhanced wireless
2 911 service. The portion of the costs of equipment or services used in
3 the wireless carrier's main infrastructure resulting in revenue to the
4 wireless carrier is not eligible for funding;

5 (b) Costs incurred or to be incurred by public safety answering
6 points to implement enhanced wireless 911 service may include, but not be
7 limited to, purchases of new equipment, costs of upgrades, modification
8 and personnel training used solely to process the data elements of
9 enhanced wireless 911 service, and maintenance costs and license fees for
10 new equipment;

11 (c) Costs incurred or to be incurred by public safety answering
12 points for the purchase, installation, maintenance, and operation of
13 telecommunications equipment and telecommunications services required for
14 the provision of enhanced wireless 911 service; and

15 ~~(d) Costs associated with the conduct of a study regarding next-~~
16 ~~generation 911 as required by section 86-471, including, but not limited~~
17 ~~to, costs related to contracting with an independent third party for~~
18 ~~purposes of conducting the study; and~~

19 ~~(d) (e)~~ Expenses incurred by members of the advisory board while
20 performing duties required by the Enhanced Wireless 911 Services Act act.

21 (3) A wireless carrier receiving funds from the ~~Enhanced Wireless~~
22 911 Service System Fund shall not directly assess any of the costs
23 associated with the implementation or provision of enhanced wireless 911
24 service to any public safety answering point, county, or municipality
25 without the express consent of the commission.

26 (4) The commission shall have any powers necessary to carry out the
27 intent and purposes of the Enhanced Wireless 911 Services Act act.

28 Sec. 6. Section 86-466, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 86-466 (1) A public safety answering point and wireless carrier may
31 be compensated for costs determined by the commission to be eligible for

1 funding. The level of funding available to each public safety answering
2 point and wireless carrier for eligible cost compensation may be limited
3 based upon the mechanism established by the commission pursuant to
4 section 86-465. The commission is not required to provide compensation
5 for costs to more than one public safety answering point in any county. A
6 public safety answering point or wireless carrier may apply for
7 disbursement from the ~~Enhanced~~ Wireless 911 Service System Fund by
8 submitting a written application to the commission. The commission shall
9 receive and review applications, including supporting documentation. The
10 commission shall notify each applicant as to the commission's approval or
11 disapproval of the application.

12 (2) Each entity that receives disbursements from the 911 Service
13 System Fund ~~fund~~ shall make a full accounting of the money in a manner
14 and form prescribed by the commission.

15 Sec. 7. Section 86-904, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 86-904 (1) Sellers shall remit collected prepaid wireless surcharges
18 to the Department of Revenue at the times and in the manner provided in
19 the Nebraska Revenue Act of 1967 with respect to sales tax. The
20 department shall establish registration and payment procedures that
21 substantially coincide with the registration and payment procedures that
22 apply to sales tax.

23 (2) A seller shall be permitted to deduct and retain three percent
24 of prepaid wireless surcharges that are collected by the seller from
25 consumers.

26 (3) The audit and appeal procedures applicable to sales tax under
27 the Nebraska Revenue Act of 1967 shall apply to prepaid wireless
28 surcharges.

29 (4) The Department of Revenue shall establish procedures by which a
30 seller of prepaid wireless telecommunications service may document that a
31 sale is not a retail transaction, which procedures shall substantially

1 coincide with the procedures for documenting sale for resale transactions
2 for sales tax purposes.

3 (5) After deducting an amount, not to exceed two percent of charges,
4 to be retained by the department to reimburse its direct costs of
5 administering the collection and remittance of prepaid wireless
6 surcharges, the department shall remit all collected prepaid wireless
7 surcharges to the State Treasurer for credit to the ~~Enhanced Wireless~~ 911
8 Service System Fund and the Nebraska Telecommunications Relay System Fund
9 in the proportions that the respective corresponding components of the
10 prepaid wireless surcharge under subsection (2) of section 86-903 bear to
11 the total prepaid wireless surcharge.

12 Sec. 8. Section 86-1001, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 86-1001 Sections 86-1001 to 86-1029 and sections 10, 11, 14, 15, and
15 16 of this act ~~86-1030~~ shall be known and may be cited as the 911 Service
16 System Act.

17 Sec. 9. Section 86-1004, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 86-1004 For purposes of the 911 Service System Act, the definitions
20 found in sections 86-1005 to 86-1024 and section 10 of this act apply.

21 Sec. 10. Committee means the 911 Service System Advisory Committee.

22 Sec. 11. (1) The 911 Service System Advisory Committee is created.
23 The committee shall advise the commission concerning the implementation,
24 coordination, operation, management, maintenance, and funding of the 911
25 service system and provide input on technical training and quality
26 assurance. The state 911 director and the Chief Information Officer or
27 his or her designee shall serve as ex officio members. The committee
28 shall include the following individuals appointed by the commission:

29 (a) Four representatives of public safety agencies within the state,
30 including an emergency manager, a member of a law enforcement agency, a
31 member of a fire department, and a member of an emergency medical service

1 as defined in section 38-1207;

2 (b) Two county officials or employees;

3 (c) Two municipal officials or employees;

4 (d) Two representatives of the telecommunications industry;

5 (e) Two managers of public safety answering points, one of whom is
6 employed by a county sheriff and one of whom is not employed by a county
7 sheriff;

8 (f) One representative of the Nebraska Association of County
9 Officials; and

10 (g) One representative of the League of Nebraska Municipalities.

11 (2) Of the fourteen appointed members of the committee described in
12 subdivisions (1)(a) through (g) of this section, at least four members
13 shall be appointed from each of the three congressional districts. The
14 appointed members of the committee shall serve for terms of three years.
15 A vacancy shall be filled for the remainder of the unexpired term. The
16 committee shall annually select a chairperson and vice-chairperson and
17 meet as often as necessary to carry out its duties. Members of the
18 committee shall be reimbursed for their actual and necessary expenses as
19 provided in sections 81-1174 to 81-1177.

20 (3) The committee shall make any recommendations to the commission
21 regarding the exercise of the commission's duties administering the 911
22 service system pursuant to section 86-1025, including recommending the
23 adoption and promulgation of any rules and regulations necessary to carry
24 out the purposes of the 911 Service System Act or the introduction of any
25 legislation. The commission may consider and implement any such
26 recommendations.

27 Sec. 12. Section 86-1025, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 86-1025 The commission shall:

30 (1) Serve as the statewide coordinating authority for the
31 implementation of the 911 service system;

1 (2) Be responsible for statewide planning, implementation,
2 coordination, funding assistance, deployment, and management and
3 maintenance of the 911 service system to ensure that coordinated 911
4 service is provided to all residents of the state at a consistent level
5 of service in a cost-effective manner;

6 (3) Be responsible for establishing mandatory and uniform technical
7 and training standards applicable to public safety answering points and
8 adopting and promulgating rules and regulations applicable to public
9 safety answering points for quality assurance standards; ~~and~~

10 ~~(4) Be responsible for consulting with and seeking advice and~~
11 ~~assistance from stakeholders, including:~~

12 ~~(a) Public safety answering points;~~

13 ~~(b) Public safety agencies;~~

14 ~~(c) Originating service providers, including at least one~~
15 ~~representative from each of the following: A wireline local exchange~~
16 ~~service provider, a wireless provider, and an interconnected voice over~~
17 ~~Internet protocol service provider;~~

18 ~~(d) Municipal and county officials; and~~

19 ~~(e) The Chief Information Officer.~~

20 (4) Appoint the members of the committee and act on the committee's
21 recommendations as provided in section 11 of this act; and

22 (5)(a) Determine how to allocate the 911 Service System Fund in
23 order to facilitate the planning, implementation, coordination,
24 operation, management, and maintenance of the 911 service system;

25 (b) Create a mechanism for determining the level of funding
26 available to or for the benefit of local governing bodies, public safety
27 answering points, and third-party service or infrastructure providers for
28 costs determined to be eligible by the commission under subdivision (5)
29 (c) of this section; and

30 (c) Establish standards and criteria concerning disbursements from
31 the 911 Service System Fund for the planning, implementation,

1 coordination, operation, management, and maintenance of the 911 service
2 system. In establishing such standards and criteria, the following may be
3 eligible for funding:

4 (i) Costs incurred by or on behalf of governing bodies or public
5 safety answering points to provide 911 service, including, but not
6 limited to, (A) acquisition of new equipment and related maintenance
7 costs and license fees, (B) upgrades and modifications, (C) delivering
8 next-generation 911 core services, and (D) training personnel used to
9 provide 911 services; and

10 (ii) Costs incurred by or on behalf of governing bodies or public
11 safety answering points for the acquisition, installation, maintenance,
12 and operation of telecommunications equipment and telecommunications
13 service required for the provision of 911 service.

14 Sec. 13. Section 86-1026, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 86-1026 The commission shall appoint a state 911 director to manage
17 the department established within the commission for the 911 service
18 system. The commission shall ensure that the department has all necessary
19 staffing and resources. The commission may retain contracted experts or
20 consultants who may be required for the administration of the 911 Service
21 System Act. ~~The commission and the state 911 director shall establish an~~
22 ~~advisory committee to provide input on technical training, quality~~
23 ~~assurance, funding, and operation and maintenance of the 911 service~~
24 ~~system. Advisory committee members shall be approved by the commission.~~

25 Sec. 14. The commission may apply for any federal or other funds
26 available for next-generation 911 service and may distribute such federal
27 funds consistent with federal law and other funds consistent with the
28 directives, purposes, or conditions of such other funds. Except for
29 intentional acts, the commission shall be immune from liability or the
30 payment of damages in applying for any such federal funds. The state 911
31 director shall be the designated single point of contact for any federal

1 911 grant program.

2 Sec. 15. Any person involved in the provision of next-generation
3 911 service who: (1) Receives, develops, collects, or processes
4 information for any 911 data base; (2) provides local exchange,
5 interexchange, or transport service in connection with any next-
6 generation 911 service; (3) relays, transfers, operates, maintains, or
7 provides next-generation 911 service or systems capabilities; or (4)
8 provides next-generation 911 communications service for emergency service
9 providers shall, except for failure to use reasonable care or for
10 intentional acts, be immune from liability or the payment of damages in
11 the performance of installing, maintaining, or providing next-generation
12 911 service.

13 Sec. 16. The commission shall adopt and promulgate rules and
14 regulations necessary to carry out the 911 Service System Act.

15 Sec. 17. Section 86-1027, Revised Statutes Cumulative Supplement,
16 2016, is amended to read:

17 86-1027 (1) The commission and the state 911 director shall develop
18 and prepare a plan for a 911 service system, to be approved by the
19 commission, and to be implemented by the commission and the state 911
20 director on or after July 1, 2018. The commission shall hold at least two
21 public hearings on the plan: One hearing at least ninety days prior to
22 the adoption of the plan; and one hearing at least thirty days prior to
23 the adoption of the plan. The commission shall present the adopted plan
24 to the Appropriations Committee of the Legislature and the Transportation
25 and Telecommunications Committee of the Legislature no later than
26 December 1, 2017. The state 911 director, with the approval of the
27 commission, shall prepare and provide a report to the Appropriations
28 Committee and the Transportation and Telecommunications Committee on the
29 progress of the development of the plan no later than February 1, 2017.
30 The report shall be submitted electronically.

31 (2) The plan adopted by the commission shall, at a minimum, detail

1 the following:

2 (a) The costs associated with the implementation and estimated
3 ongoing operation and maintenance of the 911 service system. The
4 discussion of costs shall detail which costs the commission determines
5 should be paid from ~~the Enhanced Wireless 911 Fund~~ and the 911 Service
6 System Fund, which costs would be the obligation of local governing
7 bodies, and how the proposed costs represent a cost-effective plan;

8 (b) Recommendations to the Legislature for cost recovery for the
9 implementation, operation, and maintenance of the 911 service system;

10 (c) The commission's proposal for carrying out its role as
11 coordinator of the 911 service system;

12 (d) A recommendation of the number of public safety answering points
13 that should be maintained in the state that are capable of next-
14 generation 911 service; and

15 (e) Recommendations for any additional legislation required to
16 implement the 911 service system.

17 Sec. 18. Section 86-1028, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 86-1028 (1) The 911 Service System Fund is created. The fund shall
20 consist of surcharges collected pursuant to sections 86-457 and 86-904,
21 money transferred from the Enhanced Wireless 911 Fund, any federal funds
22 received for implementation and development of 911 service, and any other
23 money designated for credit to the 911 Service System Fund. The fund
24 shall be used for the costs of administering the fund, for the purposes
25 specified in section 86-465 unless otherwise directed by federal law with
26 respect to any federal funds, and for the purposes specified in the 911
27 Service System Act. The costs of administering the 911 Service System
28 Fund shall be kept to a minimum.

29 (2) The fund shall not be subject to any fiscal-year limitation or
30 lapse provision of unexpended balance at the end of any fiscal year or
31 biennium. Any money in the fund available for investment shall be

1 invested by the state investment officer pursuant to the Nebraska Capital
2 Expansion Act and the Nebraska State Funds Investment Act, and for the
3 period July 1, 2017, through June 30, 2019, any interest earned by the
4 fund shall be credited to the General Fund.

5 (3) Money in the 911 Service System Fund may be used to pay for
6 costs incurred by or on behalf of governing bodies or public safety
7 answering points to provide 911 service that are determined by the
8 commission to be eligible for funding. The commission is not required to
9 provide funding from the 911 Service System Fund to more than one public
10 safety answering point in any county. Each entity that receives
11 disbursements from the fund under this subsection shall make a full
12 accounting of the money in a manner and form prescribed by the
13 commission.

14 (4) The State Treasurer shall transfer any money in the Enhanced
15 Wireless 911 Fund on July 1, 2018, to the 911 Service System Fund.

16 Sec. 19. Original sections 86-442, 86-459, 86-462, 86-465, 86-466,
17 and 86-904, Reissue Revised Statutes of Nebraska, and sections 86-458,
18 86-1001, 86-1004, 86-1025, 86-1026, 86-1027, and 86-1028, Revised
19 Statutes Cumulative Supplement, 2016, are repealed.

20 Sec. 20. The following sections are outright repealed: Sections
21 86-443.01 and 86-471, Reissue Revised Statutes of Nebraska, section
22 86-1030, Revised Statutes Cumulative Supplement, 2016, and section
23 86-463, Revised Statutes Supplement, 2017.

24 Sec. 21. Since an emergency exists, this act takes effect when
25 passed and approved according to law.