

## CHAPTER 236

## H.B. No. 911

## AN ACT

relating to statewide emergency telephone number service and authorizing the imposition of fees.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Sections 1, 2, 3, 4, 5, and 6, Chapter 909, Acts of the 69th Legislature, Regular Session, 1985 (Article 1432f, Vernon's Texas Civil Statutes), are reenacted and amended to read as follows:

Sec. 1. DEFINITIONS. In this Act:

(1) "Advisory commission" means the Advisory Commission on State Emergency Communications.

(2) "Emergency communication district" means:

(A) a public agency, or group of public agencies acting jointly, that provided 9-1-1 service before September 1, 1987, or that had voted or entered a contract before that date to provide that service; or

(B) a district created under:

(i) the 9-1-1 Emergency Number Act (Article 1432c, Vernon's Texas Civil Statutes);

(ii) the Emergency Communication District Act (Article 1432d, Vernon's Texas Civil Statutes); or

(iii) the Emergency Telephone Number Act (Article 1432e, Vernon's Texas Civil Statutes).

(3) "Intrastate long distance service provider" means a telecommunications carrier providing intrastate long distance service, as defined by the advisory commission.

(4) "Local exchange service provider" means a telecommunications carrier providing telecommunications service within a local exchange service area under a certificate of public convenience and necessity issued by the public utility commission.

(5) [(2)] "9-1-1 service" means a telecommunications service that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 9-1-1.

(6) [(3)] "Public agency" means the state government, [or] an incorporated city or town, a county, an emergency communication district, a regional planning commission, or any [other] political subdivision or district that provides or has authority to provide fire-fighting, law enforcement, ambulance, medical, 9-1-1, or other emergency services.

(7) "Public safety agency" means a functional division of a public agency that provides fire-fighting, police, medical, or other emergency services, or a private entity that provides emergency medical or ambulance services.

(8) [(4)] "Public safety answering point" means a communications facility operated on a 24-hour basis that is assigned the responsibility to receive 9-1-1 calls and, as appropriate, to [directly] dispatch public safety [emergency response] services or to extend, transfer, or relay 9-1-1 calls to appropriate public safety agencies.

(9) "Regional planning commission" means a commission established under Chapter 570, Acts of the 59th Legislature, Regular Session, 1965 (Article 1011m, Vernon's Texas Civil Statutes).

Sec. 2. ADVISORY COMMISSION. (a) The Advisory Commission on State Emergency Communications is created. The advisory commission is composed of 17 [14] members, eight [six] appointed by the governor, two appointed by the lieutenant governor, two appointed by the speaker of the house of representatives, and five [four] ex officio members. The governor shall include in his appointees one representative from each of the three local exchange carriers that serve the most local access lines in the state, one person who is a member of the governing body of a municipality, one person who is a member of a county commissioners court, and one person who is a director of an emergency communication district under Section 1(2)(B) of this Act. The major association representing municipal governments shall present the governor a list of

at least three eligible candidates for the position on the advisory commission to be filled by a member of municipal government, and the major association representing county governments shall present the governor a list of at least three eligible candidates for the position on the advisory commission to be filled by a member of a county commissioners court. The governor shall consider these recommendations, but is not required to select a person recommended ~~[three representatives of different leading telecommunications service providers]~~. The executive directors of the Texas Advisory Commission on Intergovernmental Relations, the Texas Department of Health, the Department of Public Safety, the Criminal Justice Policy Council, and the major association representing regional planning commissions, or the designees of those directors, shall serve as the ex officio members. At its first meeting following the biennial appointment of members the advisory commission shall elect a chairman from among its members. ~~[The executive director of the Texas Advisory Commission on Intergovernmental Relations shall serve as the presiding officer.]~~

(b) A vacancy in an appointed position on the advisory commission shall be filled by a successor appointed in the same manner as the member who leaves the commission.

(c) A majority of the members of the advisory commission constitutes a quorum for the transaction of business. The commission shall meet at Austin and at other places as fixed by the commission at the call of the presiding officer. ~~[The commission shall hold its first meeting not later than June 30, 1985.]~~

(d) ~~The commission may employ persons necessary to carry out its functions. [The staffs of the Texas Department of Health, the Department of Public Safety, and the Criminal Justice Policy Council shall provide administrative services to the advisory commission.]~~

(e) The expenses of a ~~[public]~~ member of the advisory commission shall be paid as provided by the General Appropriations Act ~~[by the state agency with which the member is affiliated. The expenses of a private sector member shall be paid on an equal basis from the contingent funds of both houses of the legislature].~~

(f) ~~Appointed members of the advisory commission serve staggered six-year terms with the terms of four members expiring September 1 of each odd-numbered year.~~

(g) ~~The Advisory Commission on State Emergency Communications is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the commission is abolished and this Act expires September 1, 1999.~~

Sec. 3. POWERS AND DUTIES OF ADVISORY COMMISSION. ~~[(a)]~~ The advisory commission shall:

- (1) administer the implementation of statewide 9-1-1 service;
- (2) develop minimum performance standards for equipment and operation of 9-1-1 service to be followed in establishing regional plans under Section 5 of this Act, including requirements that the plans provide for:
  - (A) automatic number identification by which the telephone number of a caller is automatically identified at the public safety answering point receiving the call; and
  - (B) other features the advisory commission considers appropriate;
- (3) examine and approve or disapprove regional plans under Section 5 of this Act;
- (4) recommend minimum training standards and provide assistance in the establishment and operation of 9-1-1 service; and
- (5) allocate money to prepare and operate regional plans as provided by Section 5 of this Act ~~[investigate the provision of emergency services in this state to develop recommendations relating to the establishment of a 9-1-1 service. In conducting its investigation, the commission shall examine all aspects of the delivery of emergency services in this state, including:~~
  - ~~[(1) the average time period between a request for emergency aid and a response by a public agency;~~
  - ~~[(2) any delay in response time caused by a proliferation of emergency telephone numbers;~~

~~[(3) the necessity of coordination among various political subdivisions in providing emergency aid in multicounty metropolitan areas; and~~

~~[(4) the possibilities of cost reductions achieved through the use of a uniform state-wide response system.~~

~~[(b) The advisory commission shall identify all existing federal, state, local, and private funding sources available for the implementation of a 9-1-1 service. The advisory commission shall estimate the cost to local public agencies to plan, implement, and operate a 9-1-1 service].~~

Sec. 4. AGENCY COOPERATION; SERVICE PROVIDER LIABILITY; APPLICATION TO EMERGENCY COMMUNICATION DISTRICTS. (a) Each public agency and regional planning commission shall cooperate with the advisory commission to the fullest extent possible. ~~[An agency shall provide the advisory commission with copies of any pertinent documents requested by the commission.]~~

(b) A service provider of telecommunications service involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, or an officer or employee of such a service provider or manufacturer may not be held liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless it is proven that the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct. A member of the advisory commission or the governing body of a public agency may not be held liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action.

(c) Except as expressly provided by this Act, this Act does not affect the existence or operation of an emergency communication district or prevent the addition of territory to the area served by an emergency communication district as permitted by law.

Sec. 5. REGIONAL PLANS [REPORT TO 70TH LEGISLATURE]. (a) Each regional planning commission shall develop a plan for establishment and operation of 9-1-1 service throughout the region that the regional planning commission serves. The service must meet the advisory commission's standards.

(b) The plan must include a description of how the service is to be administered. Administration may be by emergency communication districts, municipalities, or counties, by a combination formed by interlocal contract, or by other appropriate means determined by the regional planning commission. In a region in which one or more emergency communication districts exist, preference shall be given to administration by and expansion of the area served by the districts.

(c) The plan must include a description of how money allocated to the region under this Act is to be allocated within the region.

(d) In a region in which one or more emergency communication districts exist, and if such a district chooses to participate in the plan, then the district shall assist in the development of the plan. Participation by the district in the plan does not affect the district's authority to set its own fees in the territory under its jurisdiction on January 1, 1988.

(e) The regional planning commission shall submit the regional plan to the advisory commission for approval or disapproval. In making its determination, the advisory commission shall consider whether the plan satisfies standards established by the advisory commission under this Act, the cost-effectiveness of the plan, and the appropriateness of the plan in the establishment of statewide 9-1-1 service. If the advisory commission disapproves the plan, it shall specify the reasons for disapproval and set a deadline for submission of a modified plan. If the advisory commission approves the plan, it shall allocate to the region, from money collected under Section 6(b) of this Act, the amount of money that the advisory commission considers appropriate to operate 9-1-1 service in the region according to the plan.

(f) A county having a population of 120,000 or less, according to the most recent federal decennial census, or another public agency other than the state located in the county is not required to participate in the plan, and a fee or surcharge under this Act may not be charged a customer in the boundaries of the public agency, unless the

county or other public agency chooses to participate in the plan by resolution of its governing body.

(g) A plan may be amended according to the procedure determined by the advisory commission.

(h) On approval by the advisory commission, an emergency communication district may choose to participate in the regional plan applicable to the regional planning commission region in which the district is located. An emergency communication district under Section 1(2)(A) of this Act may choose to participate in the regional plan by resolution of its governing body or by adoption of an ordinance. An emergency communication district under Section 1(2)(B) of this Act may choose to participate in the regional plan by order of the district's board following public hearing held in the manner required for a public hearing on the continuation of the district under the statute providing for the creation of the district. Following adoption of the resolution, ordinance, or order and approval by the advisory commission, the regional planning commission shall amend the regional plan to take into account the participation of the emergency communication district. Participation in the regional plan by an emergency communication district does not affect the organization or operation of the district, except that the district may not collect an emergency communication fee or other special fee for 9-1-1 service not permitted by this Act. However, an emergency communication district's authority to set fees remains unaffected as provided by Subsection (d) of this section. ~~[The advisory commission shall issue a written report for presentation to the 70th Legislature not later than the 30th day of the regular session of that legislature. The report shall state the findings and recommendations of the advisory commission.]~~

Sec. 6. *FINANCING* ~~[EXPIRATION]~~. (a) Except as otherwise provided by this section, the advisory commission may impose a 9-1-1 emergency service fee in an amount set by the commission at not more than 50 cents a month per local exchange access line or equivalent local exchange access line, including lines of customers in an area served by an emergency communication district participating in the regional plan, but not including lines to coin-operated or coin/card reader public telephone equipment. The advisory commission shall determine what constitutes an equivalent local exchange access line. The commission may set the fee at different amounts for different regional planning commission regions based on the cost of providing 9-1-1 service in each region. Except as provided by Subsection (d) of this section, a local exchange service provider shall collect the fees imposed on its customers under this subsection and shall deliver the fees to the regional planning commission or other public agency designated by, and located in the area served by, the regional planning commission not later than the 60th day after the last day of the month during which the fees were collected. The regional planning commission or designated agency shall distribute the fees to the public agencies in the county for use in providing 9-1-1 service. The fee imposed under this subsection does not apply to an emergency communication district not participating in the regional plan. A customer in the area served by such a district may not be charged a fee under this subsection, and money collected under this subsection may not be allocated to such a district or a public agency located in the area served by the district.

(b) In addition to the fee imposed under Subsection (a) of this section, the advisory commission may impose a 9-1-1 equalization surcharge on each customer receiving intrastate long-distance service, including customers in an area served by an emergency communication district, whether or not the district is participating in the regional plan. The fee must be in an amount not exceeding one-half percent of charges for intrastate long-distance service, as defined by the advisory commission. Except as provided by Subsection (d) of this section, an intrastate long-distance service provider shall collect the surcharges imposed on its customers under this section, and shall deliver the surcharges to the advisory commission not later than the 60th day after the last day of the month in which the surcharges were collected. Periodically, the advisory commission shall allocate the surcharges to each regional planning commission or other public agency designated by the regional planning commission for use in carrying out the regional plans provided for by this Act. The allocations to

*each regional planning commission need not be equal, but should be made to carry out the policy of this Act to implement 9-1-1 service statewide. Money collected under this subsection may be allocated to an emergency communication district, whether or not the district is participating in the regional plan. The advisory commission shall manage the surcharges outside the state treasury until they are allocated to regional planning commissions. The advisory commission may retain from surcharges collected under this section the amount necessary for the advisory commission to carry out its duties under this Act.*

*(c) Each customer on which a fee or surcharge is imposed under this section is liable for the fee or surcharge in the same manner the customer is liable for charges for services provided by the service provider, and the service provider shall collect the fees and surcharges in the same manner it collects those charges for service, except that the service provider is not required to take legal action to enforce the collection of the fees and surcharges. The regional planning commission or a public agency designated by the regional planning commission may establish collection procedures and recover the cost of collection from the customer involved. The regional planning commission or designated public agency may begin legal proceedings to collect the fees and surcharges and is entitled in those proceedings to recover from the customer court costs, attorney's fees, and interest on the delinquent amount computed at a rate of 12 percent beginning on the date the fees or surcharges became due. The service provider may not disconnect services for nonpayment of a fee or surcharge under this section. A fee or surcharge under this Act shall be stated separately in the customer's bill. Except as expressly provided by this Act, fees and surcharges collected under this section may be used only for planning, development, and provision of 9-1-1 service as approved by the advisory commission. A fee or surcharge under this section may not be imposed on or collected from the state or an agency in any branch of state government.*

*(d) A service provider collecting fees or surcharges under this section may retain as an administrative fee an amount equal to two percent of the total amount collected.*

*(e) The advisory commission may require at its own expense an audit of a service provider collecting fees or surcharges under this section or of a public agency receiving money under this Act. The audit of a service provider must be limited to collection and remittance of money collected under this section, and the audit of a public agency must be limited to collection, remittance, and expenditure of money collected under this section. [This Act expires, and the advisory commission is dissolved, effective May 31, 1987.]*

SECTION 2. Subchapter C, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.062 to read as follows:

*Sec. 101.062. 9-1-1 EMERGENCY SERVICE. (a) In this section, "9-1-1 service" and "public agency" have the meanings assigned those terms by Section 1, Chapter 909, Acts of the 69th Legislature, Regular Session, 1985 (Article 1432f, Vernon's Texas Civil Statutes).*

*(b) This chapter applies to a claim against a public agency that arises from an action of an employee of the public agency or a volunteer under direction of the public agency and that involves providing 9-1-1 service or responding to a 9-1-1 emergency call only if the action violates a statute or ordinance applicable to the action.*

SECTION 3. The 9-1-1 Emergency Number Act (Article 1432c, Vernon's Texas Civil Statutes) is amended by adding Section 4A to read as follows:

*Sec. 4A. LIMIT ON CREATION. A district may not be created under this Act after January 1, 1988.*

SECTION 4. Section 15, 9-1-1 Emergency Number Act (Article 1432c, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

*(e) At each public hearing held under this section the board shall also solicit comments on the participation of the district in the applicable regional plan for 9-1-1*

*service established under Chapter 909, Acts of the 69th Legislature, Regular Session, 1985 (Article 1432f, Vernon's Texas Civil Statutes). Following the hearing the board may choose to participate in the regional plan as provided by that Act.*

SECTION 5. Section 5, Emergency Communication District Act (Article 1432d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. CREATION OF DISTRICT. An emergency communication district may be created as provided by this Act. *A district may not be created under this Act after January 1, 1988.*

SECTION 6. Section 16, Emergency Communication District Act (Article 1432d, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

*(e) At each public hearing held under this section the board shall also solicit comments on the participation of the district in the applicable regional plan for 9-1-1 service established under Chapter 909, Acts of the 69th Legislature, Regular Session, 1985 (Article 1432f, Vernon's Texas Civil Statutes). Following the hearing the board may choose to participate in the regional plan as provided by that Act.*

SECTION 7. Section 5, Emergency Telephone Number Act (Article 1432e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. CREATION OF DISTRICT. An emergency communication district may be created as provided by this Act. *A district may not be created under this Act after January 1, 1988.*

SECTION 8. Section 16, Emergency Telephone Number Act (Article 1432e, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

*(e) At each public hearing held under this section the board shall also solicit comments on the participation of the district in the applicable regional plan for 9-1-1 service established under Chapter 909, Acts of the 69th Legislature, Regular Session, 1985 (Article 1432f, Vernon's Texas Civil Statutes). Following the hearing the board may choose to participate in the regional plan as provided by that Act.*

SECTION 9. Before September 1, 1988, the Advisory Commission on State Emergency Communications shall adopt the standards required by Section 3, Chapter 909, Acts of the 69th Legislature, Regular Session, 1985 (Article 1432f, Vernon's Texas Civil Statutes). Before September 1, 1989, each regional planning commission shall submit its initial regional plan required by Section 5 of that Act. Before September 1, 1995, all parts of the state must be covered by 9-1-1 service. The fees provided for by Section 6 of that Act may not be imposed before the 90th day after the effective date of this Act.

SECTION 10. (a) At its first meeting following the initial appointment of members after the effective date of this Act, the appointed members of the Advisory Commission on State Emergency Communications shall draw lots to determine which members serve two-year, four-year, or six-year terms.

(b) A person is not made ineligible for appointment as a member of the Advisory Commission on State Emergency Communications for a term expiring September 1, 1989, or for a subsequent term because of the person's previous service on the commission.

SECTION 11. This Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect when the cause of action accrued, and that law is continued in effect for that purpose.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 6, 1987, by a non-record vote. Passed by the Senate on May 21, 1987, by the following vote: Yeas 30, Nays 0.

Approved May 28, 1987.

Effective August 31, 1987, 90 days after date of adjournment.