

HOUSE BILL 1078

Unofficial Copy
E4

2001 Regular Session
11r1369
CF 11r2506

By: **Delegates McIntosh and Wood**
Introduced and read first time: February 9, 2001
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Wireless Enhanced 911 Service**

3 FOR the purpose of authorizing the establishment of wireless enhanced 911 service in
4 the State in accordance with certain orders; authorizing the Emergency Number
5 Systems Board to review, approve or reject, and audit certain cost estimates
6 submitted by certain commercial mobile radio service providers in a certain
7 manner; authorizing the Board to authorize certain expenditures to certain
8 persons for certain purposes; requiring certain CMRS providers to submit
9 certain estimates and information to the Board; providing that certain
10 information is confidential, privileged, and proprietary and may not be disclosed
11 except in a certain manner; providing for the application of a certain fee to
12 subscribers of certain commercial mobile radio services, calculated in a certain
13 manner and to cover certain costs; requiring the Comptroller to pay certain
14 amounts under certain circumstances for certain purposes; extending certain
15 immunity from liability to certain providers of certain services; providing for the
16 establishment of an Advisory Work Group on Wireless Enhanced 911 Service for
17 certain purposes; altering and adding certain definitions; and generally relating
18 to wireless enhanced 911 service.

19 BY repealing and reenacting, with amendments,
20 Article 41 - Governor - Executive and Administrative Departments
21 Section 18-101(f), 18-103, 18-105, 18-106(c), and 18-107(f)
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 2000 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article 41 - Governor - Executive and Administrative Departments**

27 18-101.

28 (f) In this subtitle, the following words and terms have the meanings
29 indicated:

- 1 (1) "County" means any of the 23 counties of Maryland and Baltimore
2 City.
- 3 (2) "Comptroller" means the Comptroller of the State Treasury.
- 4 (3) "Board" means the Emergency Number Systems Board.
- 5 (4) "Secretary" means the Secretary of the State Department of Public
6 Safety and Correctional Services.
- 7 (5) "911 system" means a telephone service which meets the planning
8 guidelines established pursuant to § 18-103 of this subtitle, and which automatically
9 connects a person dialing the digits 911 to an established public safety answering
10 point. 911 system includes equipment for connecting and outswitching 911 calls
11 within a telephone central office, trunking facilities from the central office to a public
12 safety answering point, and equipment to connect 911 calls to the appropriate public
13 safety agency.
- 14 (6) "Enhanced 911" means a 911 system that provides:
- 15 (i) Automatic number identification;
- 16 (ii) Automatic location identification; and
- 17 (iii) After July 1, 1995, other future technological advancements
18 that the Board may require.
- 19 (7) "Public safety answering point" means a communications facility
20 operated on a 24 hour basis which first receives 911 calls from persons in a 911
21 service area and which may, as appropriate, directly dispatch public safety services or
22 extend, transfer, or relay 911 calls to appropriate public safety agencies.
- 23 (8) "Public safety agency" means a functional division of a public agency
24 which provides fire fighting, police, medical, or other emergency services or a private
25 entity which provides such services on a voluntary basis.
- 26 (9) "County plan" means a plan for a 911 system or enhanced 911 system
27 or any amendment to the plan developed by a county or several counties together
28 under the provisions of §§ 18-103 and 18-104 of this subtitle.
- 29 (10) "911 Trust Fund" means the Fund established by § 18-105 of this
30 subtitle.
- 31 (11) "Multicounty" means two or more counties which are contiguous.
- 32 (12) "911 fee" means the fee imposed pursuant to § 18-105(b) of this
33 subtitle.
- 34 (13) "Additional charge" means the charge imposed by a county pursuant
35 to § 18-105(c) of this subtitle.

1 [(14) (i) "Wireless telephone service" means public telephone services
2 provided for two way voice or data communication which is transmitted independent
3 of switched local exchange access telephone service and which may in part be
4 transmitted via cable or wire as part of a larger telephone or cable system.

5 (ii) "Wireless telephone service" includes:

- 6 1. Cellular telephone service (cellular);
7 2. Personal communication service (PCS); and
8 3. Specialized mobile radio (SMR).

9 (iii) "Wireless telephone service" does not include any service that
10 cannot connect a person dialing the digits 911 to an established public safety
11 answering point under the 911 system.

12 [(15)] (14) "911-accessible service" means any telephone or other
13 communications service that connects a person dialing the digits 911 to an
14 established public safety answering point under the 911 system.

15 [(16)] (15) (i) "911 service carrier" means any provider of [a wireless
16 telephone] COMMERCIAL MOBILE RADIO service or other 911-accessible service.

17 (ii) "911 service carrier" does not include a telephone company.

18 (16) "CMRS PROVIDER" MEANS A PERSON AUTHORIZED BY THE FEDERAL
19 COMMUNICATIONS COMMISSION TO PROVIDE COMMERCIAL MOBILE RADIO SERVICE
20 IN MARYLAND.

21 (17) "COMMERCIAL MOBILE RADIO SERVICE" OR "CMRS" HAS THE
22 MEANING STATED IN 40 C.F.R. § 20.3.

23 (18) "FCC ORDER" MEANS THE ACCURACY AND OTHER TECHNICAL
24 ASPECTS OF ORDERS ISSUED BY THE FEDERAL COMMUNICATIONS COMMISSION
25 UNDER PROCEEDINGS REGARDING THE COMPATIBILITY OF ENHANCED 911
26 EMERGENCY CALLING SYSTEMS AND DELIVERY OF WIRELESS ENHANCED 911
27 SERVICE.

28 (19) "WIRELESS ENHANCED 911 SERVICE" MEANS ENHANCED 911
29 SERVICE THAT THE FEDERAL COMMUNICATIONS COMMISSION REQUIRES A CMRS
30 PROVIDER TO PROVIDE UNDER THE FCC ORDER AND IMPLEMENTING REGULATIONS.

31 (20) "SUBSCRIBER BASE" MEANS THE TOTAL NUMBER OF TELEPHONE
32 NUMBERS BILLED FOR AND PROVIDED BY A MARYLAND HOME SERVICE PROVIDER
33 OF CMRS.

34 (21) "CUSTOMER", "HOME SERVICE PROVIDER", AND "PLACE OF PRIMARY
35 USE", WITH RESPECT TO CMRS, HAVE THE MEANINGS STATED IN 4 U.S.C. § 124.

1 18-103.

2 (a) There is an Emergency Number Systems Board in the Department of
3 Public Safety and Correctional Services.

4 (b) The Board has 13 members appointed by the Governor with the advice and
5 consent of the Senate. The members of the Board serve for terms of 4 years each and
6 are as follows:

7 (1) One member representing a telephone utility company operating in
8 Maryland;

9 (2) One member representing the wireless telephone industry in
10 Maryland;

11 (3) One member representing the Maryland Institute for Emergency
12 Medical Services;

13 (4) One member representing the Department of State Police;

14 (5) One member representing the Maryland Public Service Commission;

15 (6) One member representing the Association of Public Safety
16 Communications Officers;

17 (7) Two members representing the county fire services in Maryland; one
18 shall represent the career fire services and one shall represent the volunteer fire
19 services;

20 (8) One member representing police services in Maryland;

21 (9) One member representing emergency management services; and

22 (10) Three members representing the public at large.

23 (c) The Governor shall appoint a chairperson from among its membership.

24 (d) The Secretary shall provide staff services to the Emergency Number
25 Systems Board, which shall include a coordinator position which is responsible for the
26 daily operation of the office of the Board. The position of the coordinator shall be
27 funded from the 911 Trust Fund.

28 (e) The Board shall serve without compensation except that members may be
29 reimbursed for travel expenses incurred for Board meetings under the Standard State
30 Travel Regulations.

31 (f) (1) The terms of the members are staggered as required by the terms
32 provided for members of the Board on July 1, 1983. At the end of a term, a member
33 continues to serve until a successor is appointed.

1 (2) In the event that a vacancy on the Board occurs after a term has
2 begun, the Governor shall appoint a successor representing the organization or group
3 where the vacancy occurs who serves for the rest of the term and until a successor is
4 appointed.

5 (g) Meetings of the Board shall be convened as necessary, but not less than
6 once a quarter.

7 (h) The Board shall coordinate the enhancement of county 911 systems. The
8 following responsibilities shall be included in this coordination role:

9 (1) To establish planning guidelines for enhanced 911 system plans in
10 accordance with § 18-104. The guidelines shall be based upon available technology
11 and equipment and may be based upon other factors such as population and area
12 served by 911 systems as determined by the Board to be appropriate;

13 (2) To establish procedures to review and approve or disapprove county
14 or multicounty plans and to evaluate requests for variations from the established
15 guidelines;

16 (3) To establish criteria for the request for reimbursement of the costs of
17 enhancing a 911 system by any county or counties in which a 911 system is in
18 operation and for the procedures to review and approve or disapprove the request;

19 (4) To transmit the planning guidelines and the procedures established
20 in accordance with this section, and any amendments to those guidelines and
21 procedures, to the county executive and the county council or to the president of the
22 board of county commissioners in each county;

23 (5) To present annually to the Secretary a schedule for implementing the
24 enhancement of county or multicounty 911 systems and an estimate of funding
25 requirements based upon the approved county plans;

26 (6) To review and approve or disapprove requests for reimbursement of
27 the costs of enhancing 911 systems and to present to the Secretary annually a
28 schedule for reimbursement and an estimate of funding requirements;

29 (7) To review the enhancement of 911 systems;

30 (8) To audit county expenditures for the operation and maintenance of
31 911 systems;

32 (9) To ensure inspections of public safety answering points;

33 (10) To review and approve or disapprove requests from counties with
34 operational enhanced 911 systems to be exempted from the expenditure limitations
35 under the provisions of § 18-108(d) of this subtitle; and

1 (11) TO REVIEW, AND APPROVE OR REJECT, ESTIMATES OF RECURRING
2 AND NONRECURRING COST SUBMITTED BY CMRS PROVIDERS FOR THE DEPLOYMENT
3 OF WIRELESS ENHANCED 911 SERVICE;

4 (12) TO CONDUCT AN ANNUAL AUDIT OF APPROVED COST ESTIMATES OF
5 CMRS PROVIDERS TO DETERMINE WHETHER THE COST ESTIMATES SUBMITTED
6 DURING THE PRECEDING FISCAL YEAR WERE MORE OR LESS THAN THE ACTUAL
7 COSTS OF WIRELESS ENHANCED 911 SERVICE;

8 (13) To authorize expenditures from the 911 Trust Fund that:

9 (i) Involve enhancements that:

10 1. Are required by the Board;

11 2. Will be provided to a county by a third party [contractor]
12 CONTRACTOR, INCLUDING A CMRS PROVIDER OR AN AGENT OF A CMRS PROVIDER;
13 and

14 3. Will incur costs that the Board has approved prior to the
15 formation of a contract between the county and the contractor; and

16 (ii) Are approved by the Board for payment:

17 1. From proceeds collected in accordance with the provisions
18 of § 18-105(b) of this subtitle; and

19 2. Directly to a third party contractor on behalf of a [county]
20 COUNTY, INCLUDING A CMRS PROVIDER AND AN AGENT OF A CMRS PROVIDER.

21 (i) (1) The Board may instruct the Comptroller to withhold funds provided
22 to a county for 911 system expenditures for any violation of:

23 (i) The provisions of this subtitle; or

24 (ii) A regulation of the Board.

25 (2) (i) The Board shall state publicly in writing its reason for
26 withholding the funds of a county and enter its reason in the minutes book of the
27 Board.

28 (ii) Upon reaching its decision, the Board shall notify the county.

29 (iii) The county shall have 30 days from the date of notification to
30 respond in writing to the Board.

31 (3) (i) Upon notification by the Board, the Comptroller shall hold
32 county funds for a county in that county's account within the 911 Trust Fund.

33 (ii) 1. Funds held by the Comptroller under the provisions of
34 subparagraph (i) of this paragraph shall not accrue interest for a county.

1 A. REQUIRE A REFUND OF AN OVERPAYMENT TO THE 911
2 TRUST FUND; OR

3 B. ADJUST THE FUNDS APPROVED OR REJECTED UNDER A
4 SUBSEQUENT NONRECURRING COST ESTIMATE SUBMITTED BY THE CMRS
5 PROVIDER.

6 2. IF THE CMRS PROVIDER DOES NOT ANTICIPATE
7 SUBMITTING A SUBSEQUENT ESTIMATE OF NONRECURRING COSTS, THE BOARD
8 SHALL ADOPT A SCHEDULE FOR CORRECTING ANY UNDERPAYMENT.

9 (III) IN THE CASE OF AN OVERPAYMENT OR UNDERPAYMENT OF
10 RECURRING COSTS, THE BOARD SHALL ADJUST THE FUNDS TO BE APPROVED OR
11 REJECTED UNDER A SUBSEQUENT RECURRING COST ESTIMATE SUBMITTED BY THE
12 CMRS PROVIDER.

13 (3) EXPENDITURES FROM THE 911 TRUST FUND UNDER SUBSECTION
14 (H)(13) OF THIS SECTION MAY INCLUDE DIRECT NONRECURRING COSTS INCURRED
15 BY A CMRS PROVIDER OR ITS AGENT IN DESIGNING, UPGRADING, PURCHASING,
16 PROGRAMMING, INSTALLING, TESTING, ADMINISTERING, OR DELIVERING ALL
17 NECESSARY DATA, HARDWARE, SOFTWARE, AND LOCAL EXCHANGE TELEPHONE
18 SERVICE THAT ARE REQUIRED TO PROVIDE WIRELESS ENHANCED 911 SERVICE
19 UNDER THE FCC ORDER THROUGHOUT THE STATE.

20 (4) ON REQUEST OF THE CMRS PROVIDER, AND EXCEPT AS OTHERWISE
21 REQUIRED BY LAW, THE INFORMATION THAT A CMRS PROVIDER REPORTS TO THE
22 BOARD, INCLUDING VERIFICATION OF COSTS, SHALL BE CONSIDERED
23 CONFIDENTIAL, PRIVILEGED, AND PROPRIETARY, AND MAY NOT BE DISCLOSED OR
24 REDISCLOSED TO ANY PERSON OTHER THAN THE CMRS PROVIDER, INCLUDING A
25 COUNTY THAT REQUESTS WIRELESS ENHANCED 911 SERVICE, WITHOUT THE
26 EXPRESS PERMISSION OF THE CMRS PROVIDER AND WITHOUT EXECUTION OF A
27 NONDISCLOSURE AGREEMENT WITH THE CMRS PROVIDER AND THE BOARD.

28 8-105.

29 (a) (1) There is a 911 Trust Fund created for the purpose of:

30 (i) Reimbursing the counties for enhancements to a 911 system;
31 and

32 (ii) Paying contractors in accordance with the provisions of §
33 18-103(h)(11) of this subtitle.

34 (2) Moneys in the 911 Trust Fund shall be held in the State Treasury.

35 (b) (1) (I) For purposes of this subtitle, there is a 911 fee to be paid by the
36 subscribers to switched local exchange access service, [wireless telephone]
37 COMMERCIAL MOBILE RADIO service, or other 911-accessible service. The 911 fee is
38 10 cents per month payable at the time when the bills for telephone service are due.

1 (II) FOR CMRS, THE ADDITIONAL CHARGE IMPOSED BY A COUNTY
2 SHALL BE APPLIED BASED ON THE TELEPHONE NUMBER PROVIDED BY THE
3 MARYLAND HOME SERVICE PROVIDER OF CMRS AND SHALL BE COLLECTED BASED
4 ON THE PLACE OF PRIMARY USE OF THE CUSTOMER'S HOME SERVICE PROVIDER.

5 (2) The Public Service Commission shall direct the telephone companies
6 to add the 911 fee to all current bills rendered for switched local exchange access
7 service in the State. The telephone companies shall act as collection agents for the 911
8 Trust Fund with respect to the fee, and shall remit all proceeds to the Comptroller on
9 a monthly basis. The telephone companies shall be entitled to credit against the
10 proceeds of the 911 fee to be remitted an amount equal to 1 1/2 percent of the 911 fee
11 to cover the expenses of billing, collecting, and remitting the 911 fee and any
12 additional charges. The Comptroller shall deposit the funds in the 911 Trust Fund.

13 (3) The 911 service carriers shall add the 911 fee to all current bills
14 rendered for wireless telephone service or other 911-accessible service in the State.
15 The 911 service carriers shall act as collection agents for the 911 Trust Fund with
16 respect to the fee and shall remit all proceeds to the Comptroller on a monthly basis.
17 The 911 service carriers shall be entitled to credit against the proceeds of the 911 fee
18 to be remitted an amount equal to 1 1/2 percent of the 911 fee to cover the expenses of
19 billing, collecting, and remitting the 911 fee and any additional charges. The
20 Comptroller shall deposit the funds in the 911 Trust Fund.

21 (4) Notwithstanding the provisions of paragraph (3) of this subsection,
22 for calendar years 1996, 1997, and 1998 only, a 911 service carrier other than a
23 telephone company shall be entitled to credit against the proceeds of the 911 fee to be
24 remitted an amount equal to 2 1/2 percent of the 911 fee to cover the expenses of
25 billing, collecting, and remitting the 911 fee and any additional charges.

26 (c) (1) (I) In addition to the 911 fee imposed by subsection (b) of this
27 section, the governing body of each county may by ordinance or resolution after public
28 hearing enact or adopt an additional charge not to exceed 50 cents per month to be
29 applied to all current bills rendered for switched local exchange access service,
30 wireless telephone service, COMMERCIAL MOBILE RADIO SERVICE, or other
31 911-accessible service within that county. The amount of the additional [charge may]
32 CHARGE:

33 1. MAY not exceed a level necessary to cover the total amount
34 of eligible operation and maintenance costs of the [county]; AND

35 2. WHERE WIRELESS ENHANCED 911 SERVICE HAS BEEN
36 REQUESTED, SHALL COVER ALL REASONABLE DIRECT RECURRING OPERATING
37 EXPENSES INCURRED BY CMRS PROVIDERS IN LEASING, ADMINISTERING,
38 DELIVERING, OR MAINTAINING ALL NECESSARY DATA, HARDWARE, SOFTWARE, AND
39 LOCAL EXCHANGE TELEPHONE SERVICE THAT ARE REQUIRED TO PROVIDE
40 WIRELESS ENHANCED 911 SERVICE UNDER THE FCC ORDER IN THAT COUNTY.

41 (II) FOR CMRS, THE ADDITIONAL CHARGE IMPOSED BY A COUNTY
42 SHALL BE APPLIED BASED ON THE TELEPHONE NUMBER PROVIDED BY THE

1 MARYLAND HOME SERVICE PROVIDER OF CMRS AND SHALL BE COLLECTED BASED
2 ON THE PLACE OF PRIMARY USE OF THE CUSTOMER'S HOME SERVICE PROVIDER.

3 (2) The additional charge shall continue in effect until repealed or
4 modified by a subsequent ordinance or resolution.

5 (3) (i) Upon adopting, repealing, or modifying an additional charge,
6 the county shall certify the amount of the additional charge to the Public Service
7 Commission which on 60 days' notice shall direct the telephone companies to add the
8 full amount of the additional charge to all current bills rendered for switched local
9 exchange access service in each county which imposed that additional charge.

10 (ii) Within 60 days of the enactment of a county ordinance or
11 resolution that adopts, repeals, or modifies an additional charge, all 911 service
12 carriers providing service within that county shall add the full amount of the
13 additional charge to all current bills rendered for wireless telephone service or other
14 911-accessible service in each county that imposed that additional charge.

15 (4) The telephone companies and 911 service carriers shall act as
16 collection agents for the 911 Trust Fund with respect to the additional charges
17 imposed by each county. Revenues from the additional charge shall be collected by the
18 telephone companies and 911 service carriers on a county basis and remitted monthly
19 to the Comptroller for deposit to the 911 Trust Fund account maintained for the
20 county which imposed the additional charge.

21 (d) Notwithstanding any other provision of this subtitle, the 911 fee
22 authorized under this subtitle does not apply to an intermediate service line used
23 exclusively to connect a wireless telephone service or other 911-accessible service
24 other than a switched local access service to another telephone system or switching
25 device.

26 (e) The Secretary shall administer the 911 Trust Fund subject to the
27 provisions for financial management and budgeting established by the Department of
28 Budget and Management. The Secretary shall cause the Comptroller to establish
29 separate accounts for the payment of administrative expenses and for each county
30 within the 911 Trust Fund. The income derived from investment of money in the
31 Fund shall accrue to the Fund and the Comptroller shall allocate investment income
32 among the accounts in the Fund prorated on the basis of the total fees collected in
33 each county.

34 (f) The Comptroller shall disburse the moneys in the 911 Trust Fund as
35 provided in this subsection, subject to the limitations under § 18-103(i) of this
36 subtitle.

37 (1) Each July 1, the Comptroller shall allocate sufficient revenues from
38 the 911 fee to pay the costs of administering the 911 Trust Fund as provided by law.

39 (2) As directed by the Secretary and as provided in the State budget, the
40 Comptroller shall pay from the appropriate account the costs of:

1 (i) Reimbursing the costs of enhancing a 911 system by a county or
2 several counties; and

3 (ii) Paying contractors in accordance with the provisions of §
4 18-103(h)(11) of this subtitle.

5 (3) If a 911 system is in operation in a county, the Comptroller shall pay
6 to that county from the account of that county the amount of moneys requested by the
7 county and as provided in the State budget to pay for the costs of maintaining and
8 operating the 911 [system] SYSTEM, INCLUDING COSTS OF DEPLOYING AND
9 MAINTAINING WIRELESS ENHANCED 911 SERVICE. The Comptroller shall pay the
10 moneys for maintaining and operating 911 systems on September 30, December 31,
11 March 31, and June 30 of each year.

12 (g) The Legislative Auditor shall conduct postaudits of a fiscal and compliance
13 nature of the 911 Trust Fund and of the appropriations and expenditures made for
14 purposes of this subtitle. The cost of the fiscal portion of the postaudit examination
15 shall be paid from the 911 Trust Fund as an administrative cost.

16 18-106.

17 (c) A [cellular telephone company or personal communication company]
18 CMRS PROVIDER that pays or collects 911 fees under § 18-105 of this subtitle shall
19 have the same immunity from liability for transmission failures as that approved by
20 the Public Service Commission for local exchange telephone companies that are
21 subject to the regulation of the Commission under the Public Utility Companies
22 Article.

23 18-107.

24 (f) Funds accruing to the 911 Trust Fund after January 1, 1991 may be used
25 in the following manner:

26 (1) Revenues collected from the 911 fee may be used to:

27 (i) Reimburse the counties for the cost of 911 system
28 enhancements occurring after January 1, 1991; and

29 (ii) Pay contractors in accordance with the provisions of [§
30 18-103(h)(11)] § 18-103(H)(13) of this subtitle.

31 (2) Revenues collected from the additional charge may be used by the
32 counties for the cost of operating and maintaining a 911 system, subject to the
33 limitations under § 18-108 of this subtitle.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the State Emergency
35 Numbers System Board shall establish an Advisory Work Group on Wireless
36 Enhanced 911 Service to assist the Board in implementing this Act. The Work Group
37 shall include appropriate representation from Maryland local emergency number
38 systems operators, wireless and land-based communications companies, and other

1 sources as the Board considers appropriate. The Work Group shall present to the
2 Board, in a timely manner as established by the Board, suggested guidelines and
3 standards for costs involved with implementation of wireless enhanced 911 service
4 appropriate for reimbursement under this Act. Companies participating in this Work
5 Group shall provide appropriate customer and cost data necessary for the Work
6 Group's efforts, but any data involved that are not derived from public sources shall
7 be considered confidential, privileged, and proprietary, to the membership of the
8 Work Group and the Board, and shall be accorded the same protection as information
9 disclosed to the Board under Article 41, § 18-103(k)(4) of the Code, as enacted by this
10 Act.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2001.