

Chapter 223 of the Acts of 2008

AN ACT ESTABLISHING A STATE 911 DEPARTMENT, SINGLE 911 SURCHARGE AND AN ENHANCED 911 FUND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for enhanced 911 service for the citizens of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Section 18 of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 5, the words “statewide emergency telecommunications board” and inserting in place thereof the following words:- state 911 department.

SECTION 2. Said chapter 6A is hereby further amended by striking out sections 18A and 18B, as so appearing, and inserting in place thereof the following 2 sections:-

Section 18A. In this section, and in sections 18B to 18J, inclusive, of this chapter, and in section 14A of chapter 166, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Automatic location identification”, an enhanced 911 service capability that allows for the automatic display of information relating to the geographical location of the communication device used to place a 911 call.

“Automatic number identification”, an enhanced 911 service capability that allows for the automatic display of a telephone number used to place or route a 911 call.

“Commission”, the state 911 commission.

“Communication services”, includes any of the following: (a) the transmission, conveyance or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless or other medium or method, regardless of the protocol used; (b) the ability to provide two-way voice communication on the public switched network; (c) wireless enhanced 911 service; (d) wireline enhanced 911 service; (e) interconnected VoIP provider service as defined by the regulations of the FCC regulations; (f) IP - enabled service; or (g) prepaid wireless service.

“Communication service provider”, an entity that provides communication services to a subscriber or end user.

“Department”, the state 911 department.

“Director”, the executive director of the state 911 department.

“Emergency medical dispatch”, the management of requests for emergency medical assistance by utilizing a system of: (a) tiered response or priority dispatching of emergency medical resources based on the level of medical assistance needed by the victim; and (b) pre-arrival first aid or other medical instructions given by trained personnel responsible for receiving 911 calls and directly dispatching emergency response services.

“End user”, a person who uses communication services.

“Enhanced 911 Fund”, the fund established under section 35JJ of chapter 10.

“Enhanced 911 service provider”, any entity that provides 1 or more of the following 911 elements: network, database or PSAP customer premises equipment.

“Enhanced 911 service”, a service consisting of communication network, database and equipment features provided for subscribers or end users of communication services enabling such subscribers or end users to reach a PSAP by dialing the digits 911, or by other means approved by the department, that directs calls to appropriate PSAPs based on selective routing and provides the capability for automatic number identification and automatic location identification.

“Enhanced 911 network features”, the components of enhanced 911 service that provide selective routing, automatic number identification and automatic location identification.

“Enhanced 911 systems”, a distinct entity or geographical segment in which enhanced 911 service is provided, consisting of network routing elements serving as a control office and trunking connecting all central offices within a geographical segment, and including PSAPs and network used to deliver location data to PSAPs from a data base.

“FCC”, the Federal Communications Commission.

“FCC order”, all orders issued by the FCC under the proceeding entitled “Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems” (CC Docket No. 94-102; RM 8143), or any successor proceeding, including all other criteria established therein, regarding the delivery of wireless enhanced 911 service by a wireless carrier, and all orders issued by the FCC under the proceeding entitled “In the Matter of IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers”(WC Docket No 05-196), or any successor proceeding, including all other criteria established therein, regarding the delivery of enhanced 911 service by an IP-enabled service provider.

“Governmental body” shall include any governmental body as defined in section 11A of

chapter 30A or section 23A of chapter 39.

“Interconnected VoIP service”, voice over the internet protocol services as defined by the FCC in 47 CFR 9.3.

“IP-enabled service”, a service, device or application which makes use of Internet Protocol, or IP, and capable of entering the digits 911, or by other means as approved by the department, for the purposes of interconnecting users to the enhanced 911 system including, but not limited to, voice over IP and other services, devices, or applications provided through or using wireline, cable, wireless, or satellite facilities or any other facility that may be provided in the future. “Limited secondary PSAP”, a PSAP equipped, at a minimum, with automatic number identification and automatic location identification display or printout capability. It receives 911 calls only if transferred from the primary PSAP. Data sent to a limited secondary PSAP cannot be re-routed to another location and may not necessarily be transmitted simultaneously with the voice call.

“Local exchange service”, telephone exchange lines or channels that provide local access from the premises of a subscriber in the commonwealth to the local telecommunications network to effect the transfer of information.

“Network components”, any software or hardware for a control switch, other switch modification, trunking or any components of a computer storage system or database used for selective routing of 911 calls, automatic number identification and automatic location identification, including a PSAP.

“Next generation 911”, an enhanced 911 system that incorporates the handling of all 911 calls and messages, including those using IP-enabled services or other advanced communications technologies in the infrastructure of the 911 system itself.

“Prepaid wireless telephone service”, wireless service that is activated in advance by payment for a finite dollar amount of service or minutes that terminates either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service or minutes, unless the customer makes additional payments.

“Prepaid wireless telephone service provider”, an entity providing prepaid wireless telephone service at retail or wholesale.

“PSAP customer premises equipment”, enhanced 911 call processing equipment located at a PSAP.

“Primary PSAP”, a PSAP equipped with automatic number identification and automatic location identification displays, and is the first point of reception of a 911 call. It serves the municipality in which it is located.

“Private safety department”, an entity, except for a municipality or a public safety department, that provides emergency police, fire, ambulance or medical services.

“Public safety answering point” or “PSAP”, a facility assigned the responsibility of receiving 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety agencies or other PSAPs.

“Public safety department”, a functional division of a municipality or a state that provides fire fighting, law enforcement, ambulance, medical or other emergency services.

“Regional emergency communication center”, a facility operated by or on behalf of 2 or more municipalities or governmental bodies, or combination thereof, as approved by the department, that enter into an agreement for the establishment and provision of regional dispatch and coordination of emergency services for all such municipalities or governmental bodies including, but not limited to, a regional PSAP that provides enhanced 911 service and police, fire protection, and emergency medical services dispatch, including services provided by a private safety department. The regional PSAP portion of the center shall be equipped with automatic number identification and automatic location identification displays, as approved by the department, and is the first point of reception of a 911 call.

“Regional PSAP”, a PSAP operated by or on behalf of 2 or more municipalities or governmental bodies, or combination thereof, approved by the department, for the operation of enhanced 911 call taking and call transfer activities. A regional PSAP may also be engaged in, by agreement, the dispatching or control of public safety resources serving some or all of the municipalities or governmental bodies that comprise the regional PSAP, including where services are provided by a private safety department. If the regional PSAP serves all such municipalities or governmental bodies for the operation of enhanced 911 call taking and call transfer activities and dispatch services including where dispatch services are provided by a private safety department, it shall be considered a regional emergency communication center for the purposes of section 18B. The regional PSAP shall be equipped with automatic number identification and automatic location identification displays, as approved by the department, and is the first point of reception of a 911 call.

“Regional secondary PSAP”, a facility operated by or on behalf of 3 or more municipalities or governmental bodies, or a combination thereof, approved by the department, that enter into an agreement for the establishment and provision of regional dispatch and coordination of either police, fire protection or emergency medical services, or any combination thereof. A regional secondary PSAP is equipped with automatic number identification and automatic location identification displays. It receives 911 calls only when transferred from a primary or regional PSAP or on an alternative routing basis when calls cannot be completed to the primary or regional PSAP.

“Retail”, sales by a prepaid wireless telephone service provider directly to the end user or to a non-prepaid wireless telephone service provider through a voluntary contractual relationship in which the service is sold directly to the end user on behalf of the prepaid

wireless telephone service provider.

“Ringing PSAP”, a PSAP equipped for receipt of voice communications only, and may not operate 24 hours each day. It receives 911 calls that are transferred from the primary PSAP.

“Secondary PSAP”, a PSAP equipped with automatic number identification and automatic location identification displays. It receives 911 calls only when they are transferred from the primary PSAP or on an alternative routing basis when calls cannot be completed to the primary PSAP.

“Selective routing”, the method to direct 911 calls to the appropriate PSAP using a call routing database derived from the geographical location from which the call originated.

“Subscriber”, a person who uses communication services.

“Telephone company”, a person, firm, corporation, association or joint stock association or company, as defined in chapter 159, furnishing or rendering local telephone exchange service.

“VoIP or voice over internet protocol”, a type of IP-enabled service that allows for the two-way real time transmission of voice communications and has access to the public switched network.

“Wholesale”, sales by the prepaid wireless telephone service provider to a non-prepaid wireless telephone service provider that sells service on behalf of the prepaid wireless telephone service provider.

“Wireless carrier”, a commercial mobile radio service, as defined in 47 U S C 332(d), including resellers and prepaid providers of wireless services.

“Wireless enhanced 911 service”, the service required to be provided by wireless carriers under, and governed by, FCC order.

“Wireless state police PSAP”, a state police facility assigned the responsibility of primarily or entirely receiving wireless 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety departments or other PSAPs.

“Wireline carrier”, an incumbent local exchange carrier or local exchange carrier operating in the commonwealth, or a telephone company, or any other person, corporation or entity that provides local exchange service.

“Wireline enhanced 911 service”, service provided by a wireline carrier that connects a subscriber dialing or entering the digits 911 to a PSAP.

Section 18B. (a) There shall be, within the executive office of public safety and security, a state 911 department. The secretary of public safety and security shall, with the advice of the commission, appoint and, subject to appropriation or funds otherwise available from other sources, fix the salary of an executive director of the department. The director shall be responsible for administering, directing and managing the affairs and business of the department, and for the appointment and supervision of all personnel at the department. The director shall not be subject to section 9A of chapter 30 or chapter 31, but shall be classified in accordance with section 45 of said chapter 30 and the salary therefore shall be determined in accordance with section 46C of said chapter 30. The executive director may appoint such other employees, including experts and consultants, as he deems necessary, subject to appropriation or available funds, to carry out the department's responsibilities.

(b) There shall be, within the executive office of public safety and security, a state 911 commission to provide strategic oversight and guidance to the department, and advise the department relative to its annual budget and all material changes thereto and in all matters regarding enhanced 911 service in the commonwealth. The commission shall consist of: the secretary of public safety and security, who shall serve as chairperson of the commission; the chief information officer of the information technology division; the colonel of state police; the state fire marshal; the police commissioner of the city of the Boston; the director of the Massachusetts office on disability; the commissioner of public health; the commissioner of the Massachusetts commission for the deaf and hard of hearing; and 11 members to be appointed by the governor, 1 of whom shall be a sitting police chief and a nominated representative of the Massachusetts Chiefs of Police Association, 1 of whom shall be a representative of the Massachusetts Police Association, 1 of whom shall be a sitting police chief and a nominated representative of the Massachusetts Major City Chiefs Association, 2 of whom shall be sitting fire chiefs and nominated representatives of the Massachusetts Fire Chiefs Association, 1 of whom shall be a nominated representative of the Professional Fire Fighters of Massachusetts, 1 of whom shall be a nominated representative of the Massachusetts Sheriffs Association, 1 of whom shall be a nominated representative of the Massachusetts Municipal Association, 1 of whom shall be a nominated representative of the Massachusetts Emergency Medical Care Advisory Board, 1 of whom shall be a nominated representative of the Massachusetts Ambulance Association, and 1 of whom shall be a manager or supervisor of a PSAP and a nominated representative of the Massachusetts Communication Supervisors Association. One of the governor's appointees shall be elected annually by the commission as its vice chairperson. Members of the commission shall be appointed for terms of 3 years with no limit on the number of terms they may serve. Members shall hold office until a successor is appointed and no member shall serve beyond the time he ceases to hold the office or employment that made him eligible for appointment to the commission. The commission shall meet at least twice annually, and at other times as necessary. A meeting of the commission may be called by its chairperson, the vice chairperson or 3 of its members. A quorum for the transaction of business shall consist of 7 members. Members of the commission shall receive no compensation, but shall be reimbursed for their expenses actually and necessarily

incurred in the discharge of their duties. The commission shall review and approve by a majority vote of those members present all formulas, percentages, guidelines or other mechanisms used to distribute the grants described in section 18B, and all major contracts that the department proposes to enter into for enhanced 911 services. The commission shall review and approve by a majority vote of those members present all regulations and standards proposed by the department.

(c) There shall be established a policy advisory committee for the sole purpose of advising the state 911 commission and state 911 department on pertinent subject matter relative to enhanced 911 service, enhanced 911 systems and enhanced 911 network features. The advisory board shall consist of 5 members, 1 of whom shall represent an incumbent local exchange carrier, 1 of whom shall represent a competitive local exchange carrier registered in the commonwealth, 1 of whom shall represent a PSAP customer premises equipment provider, 1 of whom shall represent an interconnected VoIP provider, and 1 of whom shall represent a wireless carrier. Members of the advisory board shall be residents of the state and shall be appointed by the governor from a list of qualified candidates provided by industry representatives for terms of 3 years with no limit on the number of terms they may serve. A meeting of the policy advisory committee may be called by the state 911 commission chairperson, vice chairperson, or 3 of its members. Members of the policy advisory committee shall receive no compensation, but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. The advisory board shall review all issues relative to industry interaction and network compatibility with the current enhanced 911 system, and with next generation 911. The policy advisory committee shall file a written report annually with the state 911 commission and the state 911 department.

(d) The department shall coordinate and effect the implementation of enhanced 911 service, and administer such service in the commonwealth. The department, with the commission's approval, shall promulgate rules and regulations for the administration of such service in accordance with chapter 30A, including technical and operational standards for the establishment of PSAPs which utilize enhanced 911 service features in accordance with sections 18A to 18J, inclusive, and section 14A of chapter 166. Cities and towns shall comply with such standards in the design, implementation and operation of PSAPs. The department may inspect any PSAP that utilizes enhanced 911 network features to determine if it meets the requirements of said sections and all other technical and operational standards required by law. In implementing wireless enhanced 911 service and enhanced 911 for IP-enabled services, the department shall promulgate rules and regulations consistent with the provisions required by the FCC.

(e) The number of PSAPs and enhanced 911 answering positions at primary and regional PSAPs shall be determined by the department according to a formula that takes into account cost, call volume, population, efficiency and the public safety needs of cities and towns. Applications for secondary PSAPs shall be reviewed and approved by the department. The PSAP customer premises equipment, installation and operation costs of secondary PSAPs shall be the responsibility of the applicant, but the department may provide such equipment and related maintenance if the applicant so requests and meets

eligibility requirements established by the department in standards approved by the commission. Network and database services for secondary PSAPs shall be provided as approved by the department. Applications for regional secondary PSAPs shall be reviewed and approved by the department. The PSAP customer premises equipment and installation of such equipment shall be provided by the department from the development grant set forth in paragraph (5) of subsection (i) in accordance with guidelines to be established by the department with the commission's approval. Network and database services for regional secondary PSAPs shall be provided as approved by the department.

(f) The department shall disburse funds from the Enhanced 911 Fund for prudently-incurred expenses associated with: the lease, purchase, upgrade or modification of primary and regional PSAP customer premises equipment and the maintenance of such equipment; network development, operation and maintenance; database development, operation, and maintenance; training of 911 telecommunicators regarding the receipt and use of enhanced 911 service information; education of consumers regarding the operation, limitation, role and responsible use of enhanced 911 service; grants associated with enhanced 911 service as set forth in subsection (i) and any other grant approved by the department associated with providing enhanced 911 service in the commonwealth; the recurring and nonrecurring costs of communication services providers in providing enhanced 911 service in the commonwealth to the extent required by federal or Massachusetts law or regulation or federal or Massachusetts agency decision or order; and other expenses incurred by the state 911 department in administering and operating the enhanced 911 system in the commonwealth.

(g) Consistent with federal law and regulation, the department, with the commission's approval, shall establish: performance measure standards for the enhanced 911 service provider for network, database, and PSAP customer premises equipment and associated maintenance services; service level standards for communication services providers for providing enhanced 911 service in the commonwealth including, but not limited to, standards for the provision of enhanced 911 access for the disabled community; certification requirements for enhanced 911 telecommunicators including, but not limited to, emergency medical dispatch and quality assurance of emergency medical dispatch programs; standards requiring PSAPs to have certified emergency medical dispatch personnel or to provide emergency medical dispatch through a certified emergency medical dispatch resource; and guidelines for developing and administering any grant authorized in subsection (i), or any other grant associated with providing enhanced 911 service in the commonwealth approved by the commission and the department of telecommunications and cable upon the petition of the department including, but not limited to, provisions requiring municipalities to provide documentation of expenditures. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department shall initiate a voluntary program in which municipalities may contribute timely address information to support the enhanced 911 database.

(h) The department shall review and assess the technological and operational capability and financial feasibility of wireless 911 calls being routed to and handled directly by the PSAP in which the caller is located, and if such capability exists, the department shall establish standards, with the commission's approval, by which such PSAPs may receive wireless calls. The department shall review and assess new communications technologies that may include, but are not limited to, wireless, video, broadband, and IP-based applications that may serve as the next generation 911 technology platforms, consistent with FCC decisions and federal law.

(i) The department shall develop and administer grant programs to assist PSAPs and regional emergency communication centers in providing enhanced 911 service and to foster the development of regional PSAPs, regional secondary PSAPs and regional emergency communication centers. The following grant programs shall be funded by the department as specified, and the department may add necessary personnel to develop and administer such grant programs as set forth in subparagraphs (1) to (5), inclusive.

(1) The PSAP and regional emergency communication center training grant shall reimburse primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to the training and certification of enhanced 911 telecommunicators. Funds shall be disbursed according to a formula that weighs both population served and 911 call volume, unless a different formula is approved by the commission. Five per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant. Any such increase to a level of 7.5 per cent or more shall also be approved by the department of telecommunications and cable, upon petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level not less than 3.75 per cent of the total surcharge revenues of the previous fiscal year.

(2) The PSAP and regional emergency communication center support grant shall reimburse: primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to enhanced 911 telecommunicator personnel costs, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment and other environmental control equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarm receipt and alert equipment associated with providing enhanced 911 service; regional PSAPs and regional emergency communication centers for allowable expenses related to the acquisition and maintenance of public safety radio systems; regional secondary PSAPs for allowable expenses related to PSAP customer premises equipment maintenance; and primary, regional, and regional secondary PSAPs and regional emergency communication centers for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the department. Funds

shall be disbursed according to a formula that weighs both population served and 911 call volume, unless a different formula is approved by the commission. Twenty-five per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant. Any such increase to a level of 31.25 per cent or more shall also be approved by the department of telecommunications and cable, upon petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level not less than 18.75 per cent of the total surcharge revenues of the previous fiscal year. In the guidelines administering this grant, the department may include provisions to increase the allocation of funds to primary PSAPs provided under this grant that dispatch police, fire protection and emergency medical services, taking into account if any such services are provided by a private safety department. The department may include in such guidelines provisions to increase the allocation of funds to regional secondary PSAPs that dispatch any combination of regional police, fire protection or emergency medical services.

(3) The wireless state police PSAP grant shall reimburse the wireless state police PSAPs for allowable expenses related to enhanced 911 telecommunicator personnel costs, training and certification of enhanced 911 telecommunicators, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarming receipt and alert equipment to be used at the state police PSAPs. The grant shall reimburse such PSAPs for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the department. Funds shall not be used for any equipment or services that are not directly related to the provision of enhanced 911 services or the operation of the state police PSAPs. Four per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant. Any such increase to a level of 6 per cent or more shall also be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level not less than 2 per cent of the total surcharge revenues of the previous fiscal year. In the guidelines administering this grant, the department may include provisions to increase the allocation to the wireless state police PSAPs to account for such PSAPs handling of wireline 911 calls for municipalities.

(4) The regional PSAP and regional emergency communication center incentive grant shall provide regional PSAPs and regional emergency communication centers with funds

in addition to amounts allocated as part of the PSAP and regional emergency communication center support grant to be used for reimbursement of allowable expenses as specified in the support grant for regional PSAPs and regional emergency communication centers in the following amounts: (i) for regional PSAPs serving 2 municipalities, $\frac{1}{2}$ of 1 per cent of the total surcharge revenues of the previous fiscal year; (ii) for regional PSAPs serving 3 to 9 municipalities, 1 per cent of the total surcharge revenues of the previous fiscal year; (iii) for regional PSAPs serving 10 or more municipalities, $1\frac{1}{2}$ per cent of the total surcharge revenues of the previous fiscal year; and (iv) for regional emergency communication centers, 2 per cent of the total surcharge revenues of the previous fiscal year. The percentages in clauses (i) to (iv), inclusive, may be adjusted by the commission to ensure a proper allocation of incentive funds as more regional PSAPs and regional emergency communication centers are added. Any such adjustments that increase the initial total allocation of the incentive grant by 10 per cent or more shall be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within such 90 days.

(5) The regional and regional secondary PSAP and regional emergency communication center development grant shall support the development and startup of regional and regional secondary PSAPs and regional emergency communication centers, including the expansion or upgrade of existing regional and regional secondary PSAPs, to maximize effective emergency 911 and dispatch services as well as regional interoperability. The eligibility for criteria, amount and allocation of funding shall be contained in guidelines established by the department, with commission approval. The grant shall reimburse allowable expenses related to such development and startup, or expansion or upgrade. Any subsequent adjustments that increase the initial funding allocated to this grant by 10 per cent or more shall be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days.

(j) The department shall file a written annual report with the governor and shall file a copy thereof with the state secretary, the clerks of the house of representatives and the senate who shall forward such report to the joint committee on public safety and homeland security and the house and senate ways and means committees. The department shall review and monitor the expenditures incurred under the grant programs established in this section to ensure compliance with grant guidelines. The department shall include a reporting of grant expenditures by municipality in the written annual report. Not later than June 30, every 3 years, the department shall prepare a report documenting the expenditures of each recipient of funds from surcharge revenues to ensure compliance with applicable statutes and regulations.

(k) The department may enter into contracts and agreements with, and accept gifts,

grants, contributions and bequests of funds from, any department, agency or subdivision of federal, state, county or municipal government and any individual, foundation, corporation, association or public authority for the purpose of providing or receiving services, facilities or staff assistance in connection with its work. Such funds shall be deposited with the state treasurer and credited to the Enhanced 911 Fund.

(l) No provision of this section shall be construed or interpreted to alter the regulation of providers of telecommunications services under chapter 159.

(m) The department shall work with the Massachusetts office on disability, the Massachusetts commission for the deaf and hard of hearing, the disability community and with municipalities to ensure that communication services providers are aware of the availability and use of adaptive technology, and to ensure that enhanced 911 service is accessible to people with disabilities.

SECTION 3. Said chapter 6A is hereby further amended by striking out section 18C, as so appearing, and inserting in place thereof the following section:-

Section 18C. (a) Each PSAP shall be capable of transmitting a request for law enforcement, fire fighting, medical, ambulance or other emergency services to a public or private safety department that provides the requested services.

(b) Each primary and regional PSAP shall be equipped with a system approved by the department for the processing of requests for emergency services from people with disabilities.

(c) Except as approved by the department, no person shall permit an automatic alarm or other alerting device to dial the numbers 911 automatically or provide a prerecorded message in order to access emergency services directly.

(d) A public safety department or private safety department that receives a request for emergency service outside of its jurisdiction shall promptly forward the request to the PSAP or public safety department responsible for that geographical area. Any emergency unit dispatched to a location outside its jurisdiction in the commonwealth in response to such request shall render service to the requesting party until relieved by the public safety department responsible for that geographical area.

(e) Municipalities may enter into written cooperative agreements to carry out subsections (a), (b) and (d).

SECTION 4. Said chapter 6A is hereby further amended by striking out section 18D, as so appearing, and inserting in place thereof the following section:-

Section 18D. (a) Each municipality in the commonwealth, under the requirements of chapter 150E, shall establish, staff and operate, in conjunction with 1 or more other municipalities or governmental bodies, as determined by the department, or by itself, a

PSAP on a 24 hour a day, 7 days a week basis, in a manner and according to a schedule to be approved by the department.

(b) The department shall review each proposed municipal or regional plan to determine if it meets the requirements of sections 18A to 18J, inclusive, and the technical and operational standards established by the department. The department shall require primary and regional PSAPs to display automatic number identification, automatic location identification and may require other enhanced 911 features that are or may become available and set forth in the department's regulations, standards and guidelines for administration of statewide enhanced 911 services. The primary and regional PSAP shall be designed according to the plan as specified in subsection (c).

(c) The department shall develop and maintain a statewide plan for the implementation and maintenance of enhanced 911 service consistent with federal law and regulation, including next generation 911 and IP-enabled 911 services and, if the technological and operational capability and financial feasibility exists, the routing of 911 wireless calls to primary and regional PSAPs. Such plan shall include the following:

(1) a division of the commonwealth into geographical segments under which an enhanced 911 system shall be established for each municipality, or by groups of municipalities, or by other governmental bodies, or groups of other governmental bodies, or by a combination of municipalities or governmental bodies, as specified and approved by the department;

(2) an implementation schedule, developed after consultation with communication services providers for the sequence of converting to enhanced 911 systems or next generation 911 systems;

(3) a designation, within each enhanced 911 system, of the municipalities and the public safety departments within such municipalities to serve as the primary or regional PSAPs. The department shall also evaluate the need for secondary and regional secondary PSAPs in municipalities which have requested them. It shall be the responsibility of the department to make the final determination regarding the total number and location of such PSAPs; and

(4) the department shall, not later than September 30, annually, review the existing configuration of primary, regional, regional secondary, limited secondary and ringing PSAPs and develop changes or recommendations for change by December 31, annually.

SECTION 5. Said chapter 6A is hereby further amended by striking out section 18E, as so appearing, and inserting in place thereof the following section:-

Section 18E. The attorney general may, at the request of the department or on the attorney general's own initiative, institute civil proceedings against any municipality or other governmental body operating a PSAP, or any enhanced 911 service provider or communication services provider, to enforce sections 18A to 18J, inclusive.

SECTION 6. Section 18F of said chapter 6A is hereby repealed.

SECTION 7. Said chapter 6A is hereby further amended by striking out section 18G, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 18G. The department shall require that each PSAP that possesses enhanced 911 service shall retain 911 recordings for a period of not less than 1 year.

SECTION 8. Said chapter 6A is hereby further amended by striking out section 18H, as so appearing, and inserting in place thereof the following section:-

Section 18H. (a) There shall be imposed on each subscriber or end user whose communication services are capable of accessing and utilizing an enhanced 911 system, a surcharge in the amount of 75 cents per month for expenses associated with services provided under sections 18A to 18J, inclusive, and sections 14A and 15E of chapter 166. For wireline enhanced 911 service, the charge shall be imposed on each voice grade exchange telephone line of business and residence customers within the commonwealth, but the surcharge applicable to centrex service and ISDN primary rate interface service shall be based on an equivalency ratio provided to each private branch exchange trunk. For wireless enhanced 911 service, the charge shall be imposed per wireless mobile telephone number, based on the area code chosen by the subscriber or end user. With the approval of the department, a wireless carrier may impose this surcharge based on the subscriber's or end user's billing address or other manner consistent with federal law. For interconnected VoIP provider service, the charge shall be imposed on each voice grade telephone line of business and residence customers within the commonwealth, but the surcharge applicable to such interconnected VoIP provider service that is comparable to centrex service and ISDN primary rate interface service associated with wireline enhanced 911 service shall be based on an equivalency ratio similar to that used for wireline enhanced 911 service. For IP-enabled service, the charge shall be imposed based on the subscriber's or end user's billing address in the commonwealth except for interconnected VoIP provider service, unless a different method is approved by the department. For prepaid wireless service, the department shall promulgate regulations establishing an equitable and reasonable method for the remittance and collection of the surcharge or surcharge amounts for such service. For all other services not identified above, the surcharge shall be imposed based on the subscriber's billing address in the commonwealth, unless a different method is approved by the department.

The surcharge shall be collected by the communication service provider and shall be shown on the subscriber's or end user's bill as "Disability Access/Enhanced 911 Service Surcharge", or an appropriate abbreviation. The surcharge shall not be subject to sales or use tax. The subscriber or end user shall be liable for the surcharge imposed under this section, and the communication service provider shall not be financially liable for surcharges billed on behalf of the commonwealth but not collected from subscribers or end users. Partial subscriber or end user payments shall be first applied to outstanding communication service provider charges.

(b) The department may petition the department of telecommunications and cable for an adjustment in the surcharge established in subsection (a). The department of telecommunications and cable shall be responsible for establishing the new surcharge, and all future surcharges, upon petition of the department. The department of telecommunications and cable, at its discretion but not more than once per calendar year, may investigate the prudence of the department's revenue and expenditures for the purpose of recalculating the surcharge, and may hire experts to assist in its investigation. The reasonable cost of such experts shall be charged to the Enhanced 911 Fund, but in no event shall such cost exceed \$200,000, which may be adjusted to reflect changes in the consumer price index. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the commencement of the investigation, but the surcharge shall be deemed approved if the department of telecommunications and cable does not issue its decision within such 90 days. The department of telecommunications and cable shall adopt rules that provide for the funding of prudently incurred expenses associated with services provided by sections 18A to 18J, inclusive, and sections 14A and 15E of chapter 166, by means of the surcharge. The department shall report annually to the department of telecommunications and cable on the financial condition of the Enhanced 911 Fund and on the department's assessment of new developments affecting the enhanced 911 system. The report shall be submitted to the department of telecommunications and cable within 60 days of the end of each fiscal year. The department of telecommunications and cable shall file an annual report with the clerks of the house of representatives and the senate relative to the financial condition of the Enhanced 911 Fund.

(c) The department shall seek the approval of the department of telecommunications and cable for projected total expenditures that exceed total expenditures of the previous fiscal year by 10 per cent or more. The department of telecommunications and cable may investigate the reasonableness of the expenditures and shall conduct its review and issue a decision within 90 days from the date the department files its request for approval, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within such 90 days. The department of telecommunications and cable shall notify the department of its intent to investigate within 20 days of the date the department files its request for approval. The department's request for approval shall be deemed approved in the absence of the department of telecommunication and cable's notification to the department of its intent to investigate. If the department of telecommunication and cable notifies the department that it intends to investigate an expenditure, the department of telecommunications and cable may hire experts to assist in its investigation. The reasonable cost of the experts shall be charged to the Enhanced 911 Fund, but in no event shall such cost exceed \$200,000, which may be adjusted to reflect changes in the consumer price index.

(d) Each communication service provider shall remit the surcharge revenues collected from its subscribers or end users to the state treasurer for deposit in the Enhanced 911 Fund. The surcharge revenues shall be expended for the administration and programs of the department including, but not limited to, salaries, enhanced 911 training programs, enhanced 911 public education programs, the creation of PSAP customer premises

equipment for, and maintenance of, primary and regional PSAPs, the programs mandated by section 18B and sections 14A and 15E of chapter 166, and for the implementation and administration of enhanced 911 service in the commonwealth.

(e) Each communication service provider required to remit surcharge revenues shall submit to the department and the department of telecommunications and cable information on its business entity including, but not limited to, name, business address, contact person and the telephone number, fax number and e-mail address of such contact person. Each such provider shall update this information annually.

(f) Each communication service provider shall report to the department on a monthly basis the total surcharge revenues collected from its subscribers or end users during the preceding month, the total uncollected surcharge revenues from subscribers or end users during the preceding month, the total amount billed to the department for administration costs to cover the expenses of billing, collecting and remitting the surcharge during the preceding month, and the total amount billed to the department for non-recurring and recurring costs associated with any service, operation, administration or maintenance of enhanced 911 service during the preceding month. Such monthly report shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66.

(g) A communication service provider shall forward to any PSAP or any other answering point equipped for enhanced 911 service, or upon request consistent with federal law, to a municipal, state, or federal law enforcement agency, the department of telecommunications and cable, the FCC or the department, the telephone number and street address or location of any telephone used to place a 911 call, and any other call data or information required by the FCC to be transmitted to a PSAP.

Subscriber or end user information or data provided in accordance with this section shall be used, consistent with federal law, only for the purpose of responding to emergency calls, administering and operating the enhanced 911 system and providing enhanced 911 service, or for use in any ensuing investigation or prosecution, including the investigation of false or intentionally misleading reports of incidents requiring emergency service. No communication service provider or officers, directors, employees, vendors or agents shall be liable in any action to any person for releases of information authorized by this section or for civil action resulting from or caused by such providers for participation or omissions in the development, installation, operation, maintenance, performance or provision of enhanced 911 service except for wanton or willful misconduct. Release to or use by any person of a communication service provider's subscriber or end user information or data for any use other than the purposes enumerated in this subsection shall be prohibited. Notwithstanding any general or special law to the contrary, such information or data shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66, except that aggregated information that does not identify or effectively identify specific subscriber or end user information or data may be made public.

(h) The department shall examine call volumes of all primary, regional and regional secondary PSAPs, and the population changes of the municipalities they serve, and may use such information in determining the disbursement of funds as set forth in section 18B.

SECTION 9. Section 18H1/2 of said chapter 6A is hereby repealed.

SECTION 10. Said chapter 6A is hereby further amended by striking out section 18I, as appearing in the 2006 Official Edition, and inserting in place thereof the following 2 sections:-

Section 18I. Notwithstanding any general or special law to the contrary, a municipality or other governmental body, under the requirements of chapter 150E, may modify, change or alter communication equipment used in the municipality's or other governmental body's enhanced 911 system in order to permit the monitoring of emergency 911 communications by the fire department of the municipality or other governmental body at a secure location staffed at all times by fire department personnel fully trained in such monitoring. The emergency 911 communications shall be monitored in a manner that prevents any broadcast of such communications to the general public. The secure location used for monitoring emergency 911 communications shall be restricted to trained fire department personnel when such communications are being monitored. No such modification or change in a municipality's or other governmental body's wireline carrier equipment or enhanced 911 system shall cause any degradation of the state's 911 system.

Section 18J. Beginning July 1, 2009, any new or substantially renovated multi-line telephone system shall provide the same level of enhanced 911 service that is provided to others in the commonwealth. The department shall adopt regulations to implement this requirement. In such regulations the department may exempt certain multi-line telephone systems from this requirement based on such factors as costs and the public benefits of compliance, except that accessibility of such a system to people with disabilities may only be waived if the proponent of the waiver has shown it to be technologically infeasible or of excessive cost without benefit to the disability community. For the purposes of this section, a "multi-line telephone system" shall mean a system comprised of common control units, telephones and control hardware and software providing local telephone service to multiple end-use customers in businesses, apartments, townhouses, condominiums, schools, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities or structures. "Multi-line telephone system" shall include: (1) network and premises based systems such as centrex, pbx and hybrid key telephone systems; and (2) systems owned or leased by governmental agencies, nonprofit entities and for-profit businesses.

SECTION 10A. Said chapter 6A is hereby further amended by inserting after section 18J the following section:-

Section 18K. Sections 18A to 18J, inclusive, shall not be construed to limit or expand the authority to regulate communication service providers under chapters 159 or 166 nor construed to authorize the department, or any other agency, department or subdivision of government, to regulate the rates, terms or conditions of interconnected VoIP service providers or IP-enabled services, other than for the enhanced 911 surcharge or the provision of enhanced 911 services under said sections 18A to 18J, inclusive.

SECTION 11. Section 35W of chapter 10 of the General Laws is hereby repealed.

SECTION 12. Section 35W1/2 of said chapter 10 is hereby repealed.

SECTION 13. Said chapter 10 is hereby further amended by inserting after section 35II, inserted by section 3 of chapter 169 of the acts of 2008, the following section:-

Section 35JJ. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Enhanced 911 Fund. There shall be credited to such fund all revenues received by the commonwealth from: surcharges imposed under section 18H of chapter 6A; appropriations; gifts, grants, contributions and bequests of funds from any department, agency or subdivision of federal, state or municipal government, and any individual foundation, corporation, association or public authority; revenue derived from the investment of amounts credited to the fund; and any federal funds made available for emergency telecommunication services. The fund shall be used solely for the purposes described in sections 18A to 18J, inclusive, of said chapter 6A.

(b) Amounts credited to the fund shall be available for expenditure by the state 911 department, without further appropriation. The state 911 department shall report annually to the general court its planned expenditures for the next fiscal year; the uses to which the fund was used in the last fiscal year and the balance remaining in the fund; and the aggregate surcharges collected in the last fiscal year based upon monthly reports of communication services providers as required under subsection (f) of section 18H of chapter 6A. The report shall also include a request, if necessary, for appropriation for deposit into the fund.

SECTION 13A. Section 2 of chapter 111C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 48, the words “statewide emergency telecommunications board” and inserting in place thereof the following words:- state 911 department.

SECTION 13B. Section 3 of said chapter 111C, as so appearing, is hereby amended by striking out, in line 54, the words “statewide emergency telecommunications board” and inserting in place thereof the following words: - state 911 department.

SECTION 13C. Section 13 of said chapter 111C, as so appearing, is hereby amended by striking out, in line 24, the words “statewide emergency telecommunication board” and inserting in place thereof the following words: - state 911 department.

SECTION 13D. Section 59 of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words “statewide emergency telecommunication board” and inserting in place thereof the following words: - state 911 department.

SECTION 14. Chapter 166 of the General Laws is hereby amended by striking out section 14A, as so appearing, and inserting in place thereof the following section: -

Section 14A. (a) In order to establish statewide enhanced 911 service, upon the written request of the state 911 department, established by section 18B of chapter 6A, hereinafter referred to as the department, each telephone company providing local exchange service in the commonwealth shall provide and maintain enhanced 911 service in compliance with a schedule established by the department after consultation with such phone company.

(b) Each municipality in the commonwealth shall be served by a primary or regional PSAP that utilizes enhanced 911 network features in accordance with the implementation schedule established by the department under section 18D of chapter 6A.

(c) No provision of law shall be construed to prohibit or discourage the formation of multi-department, multi-jurisdictional or regional PSAPs, or regional emergency communication centers. Any PSAP may serve the jurisdiction of more than 1 public department or a segment of the jurisdiction of a municipality.

(d) A telephone company shall forward to any PSAP or any other answering point equipped for enhanced 911 service, the telephone number and street address of any telephone used to place a 911 call. Subscriber information provided in accordance with this section shall be used only for the purpose of responding to emergency calls or for use in any ensuing investigation or prosecution, including the investigation of false or intentionally misleading reports of incidents requiring emergency service. No telephone company, nor the agents of any telephone companies, shall be liable in any action to any person for the release of information as permitted in this section.

(e) As enhanced 911 service becomes available and where facilities are available, each telephone company and owner of a private coin telephone in the commonwealth shall convert each public coin or coinless telephone within areas served by such enhanced 911 service to dial tone first capability, to allow a caller to dial 911 without first inserting a coin or paying any other charge. Each provider of public coin or coinless telephone shall provide access to enhanced 911 service, and prominently display instructions on use of such system.

SECTION 15. Said chapter 166 is hereby further amended by striking out section 15E, as appearing in section 47 of chapter 19 of the acts of 2007, and inserting in place thereof the following section:-

Section 15E. (a) As used in this section, the following words shall, unless the context

requires otherwise, have the following meanings:-

“Captioned telephone”, an amplified telecommunications device with a text display that permits the user to both listen to what is said over the telephone and simultaneously read captions of what the other person is saying, thereby allowing a hard of hearing person to utilize captioned telephone service.

“Captioned telephone service”, an enhanced voice carry over telecommunications relay service, a system which uses third party intervention to connect persons with a hearing disability but with some residual hearing, to engage in communication, by wire or radio, with a hearing individual in a manner that is functionally equivalent to the ability of an individual, who does not have a hearing disability, to communicate using voice communication services, by wire or radio.

“Common carrier”, as common carrier is used in chapters 159 and 166, and referring to a business in the commonwealth that is a provider of local exchange service, so-called, to 1,000 or more subscribers. For the purposes of this section, the term shall also include a municipal lighting plant or cooperative that operates a telecommunications system under section 47E of chapter 164.

“Communication services”, includes: (a) the transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, or other medium or method, regardless of the protocol used; (b) the ability to provide two-way voice communication on the public switched network; (c) wireless enhanced 911 service; (d) wireline enhanced 911 service; (e) interconnected VoIP provider service, as defined by Federal Communication Commission regulations; (f) IP-enabled service, as defined in section 18A of chapter 6A; or (g) prepaid wireless service.

“Communication service provider”, an entity that provides communication services to a subscriber or end user.

“Deaf”, a severe to profound hearing loss resulting in the majority of circumstances, in an inability to effectively use a conventional telephone without the assistance of a text telephone or other nonvoice terminal device.

“Department”, the state 911 department.

“Disability”, a physical, cognitive, sensory or mental impairment that substantially limits 1 or more major activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning or working, and results in an inability to use a telephone without the assistance of specialized telephone equipment.

“FCC”, the Federal Communications Commission.

“Hard of hearing”, a hearing loss resulting, in the majority of circumstances, in an

inability to effectively use a telephone without the assistance of a sound amplification control or a telephone without the use of a hearing aid and a hearing aid compatible handset.

“Hearing carry over” or “HCO”, a form of telecommunications relay service, or TRS, with which a person with a speech disability is able to listen to the other end user and, in reply, a third party speaks the text as typed by the person with the speech disability and the third party does not type any conversation. Two-line HCO is an HCO service that allows TRS users to use 1 telephone line for hearing and the other for sending text telephone, or TTY, messages. HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user. HCO-to-HCO allows a relay conversation to take place between 2 HCO users.

“Public coin and coinless telephone”, a telephone operated by coin or credit card and located in high use areas that return substantial revenue from the operation thereof including, but not limited to, police stations, hospitals, airports, bus terminals, train stations, libraries, social security, medicaid and medicare offices and shopping centers.

“Semi-public coin and coinless telephone”, a telephone operated by coin or credit card and located in low use areas that return moderate revenue from the operation thereof including, but not limited to, convalescent homes, elderly housing complexes and small meeting houses.

“SCPE”, specialized, customer-premises equipment, such as artificial larynxes, signaling devices, amplified handset, hands-free telephones, text telephones, memory telephones, direct telephone dialing device, braille text telephones, captioned telephone, and other devices which provide access to telephone networks for people with a hearing, speech, vision, mobility or cognitive disability.

“SCPE distribution service”, a system of administration and record keeping, as well as distribution, repair and replacement of SCPE units for certified subscribers.

“Text telephone” or “TTY”, a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system. TTY supersedes the term “TDD” or “telecommunications device for the deaf” .

“Telecommunications relay service” or “TRS”, a telephone transmission service that provides an individual with a hearing or speech disability the ability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. TRS includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device, speech-to-speech services, and non-English relay services. TRS supersedes the terms “dual party relay system,” “message relay services,” and “TDD relay.”

“Voice carry over service”, or “VCO”, a form of TRS with which a person with a hearing disability is able to speak directly to the other end user when a third party types the response back to the person with the hearing disability and the third party does not voice the conversation. Two-line VCO is a VCO service that allows TRS users to use 1 telephone line for voicing and the other for receiving TTY messages. A VCO-to-TTY TRS call allows a relay conversation to take place between a VCO user and a TTY user. VCO-to-VCO allows a relay conversation to take place between 2 VCO users.

(b) The department shall provide and maintain a SCPE distribution service, and shall make such services available to any residential subscriber who is: (i) certified by the Massachusetts commission on the deaf and hard of hearing as sufficiently deaf or hard of hearing to be in need of SCPE equipment; (ii) certified by the Massachusetts commission for the blind as sufficiently visually impaired to be in need of SCPE equipment; or (iii) certified by the Massachusetts rehabilitation commission as otherwise sufficiently disabled to be in need of SCPE equipment. Each commission may designate the department to administer the certification process required under this section. For the purposes of making this certification, the respective aforementioned commissions shall require a written verification of the claimed disability by a physician, certified audiologist or optometrist, or other medical professional qualified to verify the disability claimed, and licensed to do business in the commonwealth. The department, upon the request of a certified subscriber, shall provide SCPE equipment to the requesting subscriber. The SCPE distribution service shall include the reasonable distribution and replacement of SCPE equipment free of charge, to certified subscribers subject to this subsection and subsection (c). Such service shall be provided free of charge, or at reduced rates if the department of telecommunications and cable first certifies that the requesting subscriber is unable to afford SCPE equipment at its full cost. Any reduced rate shall be in accordance with a rate schedule established by the department of telecommunications and cable.

(c) The department and the Massachusetts commission for the deaf and hard of hearing shall review the services specified in subsection (b) and make recommendations to the department of telecommunications and cable as to whether it conforms with the provisions herein. Prior to the implementation of services under subsection (b), the department and the Massachusetts commission on the deaf and hard of hearing shall issue a request for proposals subject to the department of telecommunications and cable’s review and approval seeking competitive bids from qualified vendors to provide such services. Communications services providers shall be permitted to submit a competitive bid to provide the aforementioned services. In any rate proceeding conducted under chapter 159 in which a common carrier seeks to reflect the costs for such services in rates, the carrier shall submit to the department of telecommunications and cable information about such requests for proposals such that the department of telecommunications and cable may determine whether the carrier’s proposal would provide such services at a cost to the carrier that reflects the least cost to its ratepayers with due regard for standards of reliability and quality, consistent with the public interest.

(d) The department shall encourage prospective vendors of telecommunications relay

service to provide such service from a center located within the commonwealth using residents of the commonwealth as employees of such center. Preference in employment at such center shall be given to people with disabilities as defined by this section. Specialty types of TRS shall not be required to be provided from a telecommunications service center located in the commonwealth.

(e) The department and the Massachusetts commission for the deaf and hard of hearing shall review the services specified in subsection (d) and make recommendations to the department of telecommunications and cable as to whether it conforms with the provisions herein. Prior to the implementation of such services, the department and the Massachusetts commission on the deaf and hard of hearing shall issue a request for proposals subject to the department of telecommunications and cable's review and approval seeking competitive bids from qualified vendors to provide the aforementioned services. Communication services providers shall be permitted to submit a competitive bid to provide such services. In any rate proceeding conducted under chapter 159 in which a common carrier seeks to reflect the costs for such services in rates, such carrier shall submit to the department of telecommunications and cable information about such requests for proposals such that the department of telecommunications and cable may determine whether the carrier's proposal would provide such services at a cost to the carrier that reflects the least cost to its ratepayers with due regard for standards of reliability and quality, consistent with the public interest.

(f) The department of telecommunications and cable, in accordance with its certification by the FCC under 47 CFR 64.604 and 64.606 shall have general oversight over all aspects of the provision of the SCPE and TRS programs, unless such certification is not renewed or is revoked. Such oversight shall include, but shall not be limited to, authority over the rates, terms, and conditions, service quality, and enforcement of federal minimum standards for the provision of such services.

(g) Any person, firm, corporation or other entity that provides public coin or coinless telephone service or semi-public coin or coinless telephone service, shall provide and maintain its public or semi-public telephones with a minimum of 25 per cent of its public or semi-public telephones with controls for sound amplification of incoming transmission consistent with Massachusetts Architectural Access Code, as provided in 521 CMR 1.0 to 47, inclusive.

(h) There shall be an advisory committee on accessibility to communication services for disabled persons. The advisory committee shall consist of the secretary of health and human services or his designee; the commissioner of the Massachusetts commission for the deaf and hard of hearing or his designee; the commissioner of the Massachusetts rehabilitation commission or his designee; the commissioner of the Massachusetts commission for the blind or his designee; the director of the Massachusetts office on disability or his designee; and 12 persons to be appointed by the governor, 2 of whom shall be persons who are deaf, 2 of whom shall be persons who are hard of hearing, and 2 who are blind, 2 with other significant vision impairments, 2 with impaired speech, and 2 with impaired mobility or motor skills. Each such member of the advisory committee

shall serve for a term of 3 years. The chairperson of the advisory council shall be appointed by the governor and shall serve in such capacity for a term of 1 year. The advisory council shall meet at least quarterly and shall make recommendations to the department and the department of telecommunications and cable on all matters of policy related to communication services and equipment for people with disabilities.

(i) The department, in consultation with the department of telecommunications and cable and the advisory committee on accessibility to telephone services for disabled persons, shall promulgate necessary regulations to implement this section.

SECTION 16. Chapter 269 of the General Laws is hereby amended by inserting after section 14A the following section:-

Section 14B. As used in this section, the following words shall have the following meanings:-

“Emergency response services provider”, a police department, fire department, emergency medical service provider, PSAP, public safety department, private safety department or other public safety agency.

“PSAP”, a facility assigned the responsibility of receiving 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety agencies or other PSAPs.

“Silent call”, a call or other communication made to a PSAP in which the initiating party fails to provide information regarding his or her identity or location or the nature of the emergency. The initiating party shall not be considered to have provided any information that is automatically transmitted by a communication device or network upon connection with a PSAP including, but not be limited to, automatic location information and automatic number information.

(a) Whoever willfully and maliciously communicates with a PSAP, or causes a communication to be made to a PSAP, which communication transmits information which the person knows or has reason to know is false and which results in the dispatch of emergency services to a nonexistent emergency or to the wrong location of an actual emergency; or (b) whoever willfully and maliciously, makes or causes to be made 3 or more silent calls to any PSAP and thereby causes emergency services to be dispatched 3 or more times shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$1,000. Whoever commits a second or subsequent violation of this section shall be punished by imprisonment in the house of correction for not more than 2½ years or by imprisonment in the state prison for not more than 10 years or by a fine of not more than 5,000 dollars, or by both such fine and imprisonment.

(b) Upon any conviction of this section, the court shall conduct a hearing to ascertain the extent of costs incurred, and damages and financial loss sustained by any emergency

response services provider as a result of the violation and shall order the defendant to make restitution to the emergency response services provider or providers for any such costs, damages or loss. Restitution shall not be waived and shall be imposed in addition to any imprisonment or fine, and not in lieu thereof, except that the court shall consider the defendant's present and future ability to pay restitution in its determinations relative to the imposition of a fine. In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden restitution will impose upon the defendant.

SECTION 17. Notwithstanding any general or special law to the contrary, balances as of July 31, 2008 in the Wireless Enhanced 911 Fund, established by section 35W of said chapter 10 of the General Laws, and in the Wireline Enhanced 911 Fund established by section 35W¹/₂ of said chapter 10, shall be transferred and deposited into the Enhanced 911 Fund, established by section 35JJ of said chapter 10. All revenue remitted after July 31, 2008 from 911 surcharges in effect under sections 18H and 18H¹/₂ of chapter 6A of the General Laws through July 31, 2008 shall be deposited into said Enhanced 911 F und established by said section 35JJ of said chapter 10.

SECTION 18. Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the statewide emergency telecommunications board, as the transferor agency, to the state 911 department, as the transferee agency, as follows:

(a) subject to appropriation, the employees of the statewide emergency telecommunications board, including those who immediately before the effective date of this act held permanent appointment in positions classified under chapter 31 of the General Laws or were granted tenure in their positions as provided by section 9A of chapter 30 of the General Laws or did not hold such tenure, or held confidential positions, are hereby transferred to the state 911 department, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation or benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either held a permanent appointment in a position classified under chapter 31 of the General Laws or was granted tenure in a position pursuant to section 9A of chapter 30 of the General Laws.

Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain under chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Nothing in this section shall confer upon any employee any right not held immediately

before the date of the transfer, or prohibit any reduction of salary grade, transfer, reassignment, suspension discharge layoff or abolition of position not prohibited before such date;

(b) all petitions, requests, investigations and other proceedings appropriately and duly brought before the statewide emergency telecommunications board or duly begun by the transferor agency and pending before it prior to the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the state 911 department;

(c) all orders, rules and regulations duly made and all approvals duly granted by the statewide emergency telecommunications board, which were in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the state 911 department;

(d) all books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act were in the custody of the statewide emergency telecommunications board shall be transferred to the state 911 department;

(e) all duly existing contracts, leases and obligations of the statewide emergency telecommunications board shall continue in effect but shall be assumed by the state 911 department. No existing right or remedy of any character shall be lost, impaired or affected by this act; and

(f) all references in any general or special law to the statewide emergency telecommunications board or a principal officer thereof shall be deemed to refer to the state 911 department or a principal officer thereof.

SECTION 19. The regulations required to be adopted under subsection (a) of section 18H of chapter 6A of the General Laws by the state 911 department shall take effect on July 1, 2009 and providers of prepaid wireless service shall be subject to said section 18H of said chapter 6A, except for subsection (g) of said section 18H of said chapter 6A on and after July 1, 2009. Subsection (g) of said section 18H of said chapter 6A shall take effect on the effective date of this act.

SECTION 20. The first report required to be filed under subsection (j) of section 18B of chapter 6A of the General Laws shall be filed not later than June 30, 2011.

SECTION 21. Section 15 of this act shall take effect on February 1, 2009.

Approved July 31, 2008