

Calendar No. 254

108TH CONGRESS }
1st Session }

SENATE

{ REPORT
108-130

**THE ENHANCED 911 EMERGENCY
COMMUNICATIONS ACT OF 2003**

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1250



AUGUST 26, 2003.—Ordered to be printed

Filed, under authority of the order of the Senate of July 29 (legislative
day, July 21), 2003

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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AUGUST 26, 2003.—Ordered to be printed

Filed, under authority of the order of the Senate of July 29 (legislative day, July 21), 2003

Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, submitted the following

R E P O R T

[To accompany S. 1250]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1250) to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving enhanced calls, and to support in the construction and operation of a ubiquitous and reliable citizen activated system and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purposes of this legislation are to: (i) require the Administrator of the National Telecommunications and Information Administration (NTIA) at the Department of Commerce to establish an Emergency Communications Task Force to facilitate coordination between Federal, State, and local emergency communications systems, emergency personnel, and public safety organizations; (ii) authorize up to \$500 million per year for Federal matching grants to State and local governments and to tribal organizations for enhancing emergency communications services through planning, infrastructure improvements, equipment purchases, and personnel training and acquisition; and (iii) require the Federal Communica-

tions Commission (FCC) to review at least twice per year the imposition of, and the use of revenues derived from, taxes, fees, or other charges by State or local governments on telecommunications services customers' bills that are designated for improving emergency communications services, including 911 services or enhanced 911 services.

BACKGROUND AND NEEDS

Today, there are approximately 140 million wireless telephones in use in the United States. Several studies over the last decade have shown that most consumers cite safety and security (including the ability to communicate in an emergency) as their main reason for purchasing a cell phone. Even if their own lives are not affected, many Americans have indicated they are willing to be "Good Samaritans" and use their wireless phones to report emergencies to local public safety authorities when they see them occurring. Of the approximately 200 million calls placed to 911 each year, more than 56 million, or 28 percent, of the calls are made from wireless phones. Some metropolitan areas show even higher percentages of wireless 911 calls than the nationwide average, with several receiving a majority of their 911 calls from wireless phones.

Unlike calls to 911 from land-based wireline telephones, most public safety operators answering wireless 911 calls do not have information regarding the name, telephone number, and location of the caller—referred to as enhanced 911 (E-911) services. Without this information, emergency response times may be delayed while the operators attempt to determine the location of the emergency. In many instances, wireless 911 callers do not know their exact location (particularly in rural areas), and some who are injured or disoriented cannot respond to operators' questions regarding their location. Medical emergency and public safety responders speak of a "golden hour"—the first hour after serious injury when there is the greatest chance of saving life. As time elapses, chances of survival diminish and the severity of injuries increase. Prompt and accurate location information—especially from the increasing numbers of wireless 911 calls—is therefore critical to delivering emergency assistance to victims within the first hour.

IMPLEMENTATION PROBLEMS

Successful wireless E-911 implementation requires the cooperation of three discrete groups: wireless carriers, wireline telephone companies (also known as local exchange carriers), and Public Safety Answering Points (PSAPs). A PSAP is the emergency operator dispatch point that receives 911 calls for a community. There are approximately 6,100 PSAPs nationwide. In short, the wireless carrier must be able to determine the location of the caller, the local exchange carrier must carry that location information from the carrier to the PSAP, and the PSAP must be capable of receiving such information. In many ways, the initiation of wireless E-911 implementation begins with the PSAP, because no other obligations are imposed on any other party until the PSAP submits a request for E-911 service.

It is estimated that only 10 percent of the PSAPs nationwide have made requests to receive wireless E-911 location information

(known as “Phase II” requests). One major reason for the delay in PSAP requests is that PSAPs are not ready to receive the E-911 information that will be sent to them by wireless carriers. In order to receive this information, PSAPs must first make software and hardware upgrades in their operations centers, as well as make appropriate trunking arrangements with local wireline telephone companies to enable wireless E-911 data to pass from the wireless carrier to the PSAP. As required by the FCC, however, PSAPs also must have the means of covering their costs in order to make a valid request to the wireless carrier for E-911 service. Absent a valid PSAP request, a wireless carrier is under no obligation to deploy E-911 services.

STATE FUNDING PROBLEMS

The FCC’s rules do not mandate any specific State action nor specify any particular mechanism for funding the technology and service capabilities necessary to enable the PSAP to make a valid service request. Some PSAPs are able to fund upgrades from existing State budgets, but most PSAPs must rely on funds collected pursuant to State authority for public safety services. Currently, over 40 States have established some type of wireless fee or surcharge on consumers’ mobile phone bills to fund, either in whole or in part, PSAP upgrades for wireless E-911 service. In the States relying on monthly surcharges, subscribers’ fees range from 20 cents to \$2 per month, with the average about 60 cents per month.¹ In many States, however, State laws do not specifically limit the use of wireless E-911 surcharges to wireless E-911 upgrades. These States’ surcharges can be used for other public safety purposes if not spent on wireless E-911.

Recently, State lawmakers and administrators have begun investigating the use of E-911 funds, and have discovered instances in which E-911 funds have been used for purposes other than the provision of E-911 service. Observers claim as many as 11 States have been “raiding” their collected E-911 funds to satisfy other State obligations. In New York, for example, nearly \$200 million collected as E-911 surcharges have been diverted for other public safety purposes, while the State’s PSAPs have remained underfunded and unready to request E-911 service from carriers. Although State administrators supporting these diversions argue that their decisions are justified given more pressing State funding needs, investigators also have found some egregious examples of such funds being used to cover expenses for dry cleaning and lawn mowing services for State police (e.g., New York).

LEGISLATIVE HISTORY

Senator Burns, the chairman of the Communications Subcommittee of the Committee on Commerce, Science, and Transportation, introduced S. 1250 on June 12, 2003, with Senator Clinton as an original cosponsor. The bill is also cosponsored by Senator Lautenberg.

On March 5, 2003, the Communications Subcommittee held a hearing on the implementation of E-911 services for wireless

¹ NENA Fact Sheet: Enhanced Wireless Emergency Communications: Implementation Process and Status, National Emergency Number Association (NENA), October 2001.

phones. Three members of Congress appeared before the Committee, in addition to a State assemblyman, and a diverse group of companies, associations, and private parties interested in E-911 services.

On June 26, 2003, the Committee met in open executive session and by voice vote ordered the bill reported without amendment.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 26, 2003.

Hon. JOHN MCCAIN,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1250, the Enhanced 911 Emergency Communications Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Melissa Zimmerman.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 1250—Enhanced 911 Emergency Communications Act of 2003

Summary: S. 1250 would authorize the appropriation of \$500 million a year to the National Telecommunications and Information Agency (NTIA) for grants to State and local governments and tribal organizations for improving emergency communications services. It also would establish the Emergency Communications Task Force to improve coordination between Federal, State, and local emergency communications systems and would direct the Federal Communications Commission (FCC) to monitor the collection and spending of fees levied by States for the purposes of supporting those systems.

CBO estimates that implementing S. 1250 would cost \$213 million in 2004 and about \$2.2 billion over the 2004–2008 period. CBO estimates that enacting this bill would have no effect on direct spending or revenues.

S. 1250 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). It would benefit State, local, and tribal governments by authorizing grants to enhance emergency communication services.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1250 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
NTIA:					
Estimated authorization level	510	510	510	511	511
Estimated outlays	208	410	510	511	511
FCC:					
Estimated authorization level	5	5	5	5	5
Estimated outlays	5	5	5	5	5
Total:					
Estimated authorization level	515	515	515	516	516
Estimated outlays	213	415	515	516	516

Basis of estimate: Section 5 would authorize the appropriation of \$500 million a year to NTIA for grants to state and local governments and tribal organizations for improving emergency communications systems. Based on information from that agency, CBO estimates that administering these grants would cost about \$5 million a year. Section 4 would establish an Emergency Communications Task Force, which would be charged with improving coordination between Federal, state, and local emergency communications services. The bill specifies that representatives from the Department of Justice, the Department of Homeland Security, the Department of Defense, the Department of the Interior, the Department of Transportation, the FCC, and other state, local, and industry organizations would serve on the task force. Administrative and travel costs for federal employees on the task force would be paid by the NTIA. Based on information from NTIA, we estimate the task force would cost about \$5 million over a year over the 2004–2008 period.

Assuming appropriation of the necessary amounts for the grants and administrative costs, and the cost of operating the task force, CBO estimates that implementing section 5 would cost \$208 million in 2004 and about \$2.2 billion over the 2004–2008 period.

Section 6 would direct the FCC to review the level of fees charged to consumers by state and local governments to support the operations of emergency communications services. Based on information provided by the FCC, CBO estimates that implementing section 6 would cost about \$5 million in 2004 and \$25 million over the 2004–2008 period.

Intergovernmental and private-sector impact: This bill contains no intergovernmental or private-sector mandates as defined in UMRA. It would benefit State, local, and tribal governments by authorizing grants to enhance emergency communications services. Any costs incurred by State, local, and tribal governments as a result of this legislation would be voluntary conditions of receiving Federal assistance.

Estimate prepared by: Federal Costs: Melissa E. Zimmerman. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 1250 would provide matching grants for, and better coordination of, the implementation of E-911 services by PSAPs in all States. Therefore, S. 1250 would cover all subscribers to wireless phone service (approximately 140 million Americans), as well as all members of the public that may, in the future, benefit in emergency situations from the availability of E-911 services on wireless phones.

ECONOMIC IMPACT

The legislation would authorize additional sources of funding for the implementation of E-911 services by PSAPs, thereby reducing the economic burden on such entities and those States, political subdivisions of States, and tribal organizations that currently provide for their funding. As a result, the bill would likely reduce delays in PSAP requests for E-911 services, and thus facilitate deployment of E-911 services by telecommunications service providers on a national scale and in a more organized, reliable, and cost-efficient manner.

PRIVACY

S. 1250 would not alter or affect the personal privacy protections already afforded consumers using wireless phones when calling 911 for emergency services.

PAPERWORK

S. 1250 would require the NTIA's newly formed Emergency Communications Task Force to submit annual reports to Congress. Additionally, S. 1250 would require the NTIA to administer a matching grant program and would require the FCC to notify Congress of any State that diverts E-911 funds. The legislation should generate similar amounts of administrative paperwork as other legislation requiring multiple agency coordination and reports to Congress.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide that the legislation may be cited as the "Enhanced 911 Emergency Communications Act of 2003."

Section 2. Findings

This section would set forth the following findings of Congress: E-911 services with the most modern and state-of-the-art capabilities should be available to all Americans in every region of the United States; enhanced emergency communications requires Federal, State, and local government resources and coordination; any funds collected for E-911 services should be used only for E-911 purposes; and E-911 is a high national priority, requiring Federal

leadership working in cooperation with State and local governments, and with other emergency communications services organizations.

Section 3. Purposes

This section would set forth that the purposes of the Act are the following: to coordinate emergency communications systems, including 911 services and E-911 services, at the Federal, State, and local levels; to provide stability and resources to State and local PSAPs in order to facilitate ubiquitous and reliable deployment of E-911 services throughout the United States; and to ensure that funds collected on consumers' telecommunications bills for E-911 services are used only for such purposes.

Section 4. Emergency communications coordination

This section would amend part C of title I of the NTIA Organization Act (47 U.S.C. 901 et seq.) by adding a new section requiring the NTIA Administrator to establish an Emergency Communications Task Force to facilitate coordination between Federal, State, and local emergency communications systems, emergency personnel, and public safety organizations.

This section would require the Task Force to include representatives from the following government agencies and private entities: the U.S. Department of Justice; the U.S. Department of Homeland Security; the U.S. Department of Defense; the U.S. Department of Interior; the U.S. Department of Transportation; the FCC; State and local first responder agencies; national 911 and emergency communications leadership organizations; and the telecommunications industry. The NTIA Administrator also would be free to designate additional Task Force representatives.

Section 4 would require the NTIA Administrator to make annual reports to Congress with the Task Force's recommendations on how Federal, State, and local government and emergency communications organizations can improve their coordination and communications with one another. Section 4 also would prohibit members of the Task Force from receiving special compensation for their participation.

Section 5. Grants for E-911 enhancement

This section would amend part C of title I of the NTIA Organization Act (47 U.S.C. 901 et seq.) by adding a new section authorizing up to \$500 million per year for grants to State and local governments, and to tribal organizations, for enhancing emergency communications services through planning, infrastructure improvements, equipment purchases, and personnel training and acquisition. The grant program would be administered by the NTIA in consultation with the United States Department of Homeland Security.

Section 5 would require the grant program to have a matching requirement so that the Federal share of any project eligible to receive a grant would not exceed 50 percent of the total funding. This section also would require preference in grants to go to applicants that coordinated their applications with the needs of PSAPs, as well as those that have integrated public and commercial commu-

nications services involved in the construction, delivery, and improvement of emergency communications, including 911 services.

Section 5 would require the NTIA Administrator to issue regulations regarding the criteria for the selection of grants made pursuant to this section within 180 days after the enactment of the Act, following a 60-day period of public comment.

Section 6. State and local 911 practices

This section would amend part IV of title VI of the Communications Act of 1934 (47 U.S.C. 631 et seq.) by adding a new section requiring the FCC to review at least twice per year the imposition of, and the use of revenues derived from, taxes, fees, or other charges by State or local governments on telecommunications services customers' bills that are designated for improving emergency communications services, including 911 services or E-911 services. Under this section, States also would be required to certify annually to the FCC that no portion of the revenues received for such purposes have been used for any other purposes. The FCC, in turn, would be required to notify Congress of States that fail to provide certification as well as the amount of revenues used by such States for purposes other than that for which they were collected.

Additionally, section 6 would require the NTIA Administrator to withhold grant funds to States that have failed to provide proper certification to the FCC.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION ORGANIZATION ACT

TITLE I—NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION

PART C—SPECIAL AND TEMPORARY PROVISIONS

SEC. 158. COORDINATION OF EMERGENCY COMMUNICATIONS.

(a) *ESTABLISHMENT OF TASK FORCE.*—*The Assistant Secretary shall establish an Emergency Communications Task Force to facilitate coordination between Federal, State, and local emergency communications systems, emergency personnel, and public safety organizations. The task force shall include the following:*

- (1) *Representatives from Federal agencies, including—*
 - (A) *the Department of Justice;*
 - (B) *the Department of Homeland Security;*
 - (C) *the Department of Defense;*
 - (D) *the Department of the Interior;*
 - (E) *the Department of Transportation; and*
 - (F) *the Federal Communications Commission;*
- (2) *State and local first responder agencies;*

(3) national 911 and emergency communications leadership organizations;

(4) telecommunications industry representatives; and

(5) other individuals designated by the Assistant Secretary.

(b) *PURPOSE OF TASK FORCE.*—The task force shall provide advice and recommendations with respect to methods to improve coordination and communications between agencies and organizations involved in emergency communications, including 911 services to enhance homeland security and public safety.

(c) *REPORTS.*—The Assistant Secretary shall provide an annual report to Congress by the first day of October of each year on the task force activities and make recommendations on how Federal, State, and local governments and emergency communications organizations can improve coordination and communications.

(d) *MISCELLANEOUS PROVISIONS.*—Members of the task force shall serve without special compensation with respect to their activities on behalf of the task force.

SEC. 159. EMERGENCY COMMUNICATIONS GRANTS.

(a) *MATCHING GRANTS.*—The Assistant Secretary, after consultation with the Secretary of Homeland Security, shall provide grants to State and local governments and tribal organizations (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))) for the purposes of enhancing emergency communications services through planning, infrastructure improvements, equipment purchases, and personnel training and acquisition.

(b) *MATCHING REQUIREMENT.*—The Federal share of the cost of a project eligible for a grant under this section shall not exceed 50 percent. The non-Federal share of the cost shall be provided from non-Federal sources.

(c) *PREFERENCE.*—In providing grants under subsection (a), the Assistant Secretary shall give preference to applicants who—

(1) coordinate their applications with the needs of their public safety answering points; and

(2) integrate public and commercial communications services involved in the construction, delivery, and improvement of emergency communications, including 911 services.

(d) *CRITERIA.*—The Assistant Secretary shall issue regulations within 180 days of the enactment of the Enhanced E-911 Emergency Communications Act of 2003, after a public comment period of not less than 60 days, prescribing the criteria for selection for grants under this section and shall update such regulations as necessary.

(e) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Assistant Secretary not more than \$500,000,000 for each fiscal year for grants under this section.

COMMUNICATIONS ACT OF 1934

TITLE VI—CABLE COMMUNICATIONS

PART IV. MISCELLANEOUS PROVISIONS

SECTION 6. STATE AND LOCAL 911 PRACTICES.

SEC. 642. DIVERSION OF 911 FUNDS.

(a) *IN GENERAL.*—

(1) *ASSESSMENT AND AUDIT.*—*The Commission shall review, no less frequently than twice a year—*

(A) *the imposition of taxes, fees, or other charges imposed by States or political subdivisions of States that—*

(i) *appear on telecommunications services customers' bills; and*

(ii) *are designated or presented as dedicated to improve emergency communications services, including 911 services or enhanced 911 services, or related to emergency communications services operations or improvements; and*

(B) *the use of revenues derived from such taxes, fees, or charges.*

(2) *CERTIFICATION.*—*Each State shall certify annually to the Commission that no portion of the revenues derived from such taxes, fees, or charges have been obligated or expended for any purpose other than the purposes for which such taxes, fees, or charges are designated or presented.*

(b) *NOTIFICATION OF CONGRESS AND THE PUBLIC.*—*If the Commission fails to receive the certification described in subsection (a)(2), then, within 30 days after the date on which such certification was due, the Commission shall cause to be published in the Federal Register, and notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce of—*

(1) *the identity of each State or political subdivision that failed to make the certification; and*

(2) *the amount of revenues obligated or expended by that State or political subdivision for any purpose other than the purposes for which such taxes, fees, or charges were designated or presented.*

(c) *WITHHOLDING OF FUNDS.*—*Notwithstanding any other provision of law, the Assistant Secretary shall withhold any Federal grant funds that would otherwise be made available under section 159 of the National Telecommunications and Information Administration Organization Act to a State or political subdivision identified by the Commission under subsection (b)(1) in an amount not to exceed twice the amount described in subsection (b)(2). In lieu of withholding grant funds under this subsection, the Secretary may require a State or political subdivision to repay to the Secretary the appropriate amount of funds already disbursed to that State or political subdivision.*