



Ohio Legislative Service Commission

Final Analysis

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Sub. H.B. 360

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(As Passed by the General Assembly)

Reps. Rosenberger, Butler, Murray, Grossman, J. Adams, Ruhl, Gonzales, Combs, Stautberg, Batchelder

Sens. Hite, LaRose, Eklund, Gentile, Niehaus, Seitz, Wagoner

Effective date: Emergency, December 20, 2012

ACT SUMMARY

Transfer of 9-1-1 duties

- Transfers, effective December 20, 2012, authority over the 9-1-1 service law to the Department of Public Safety and the Department of Taxation, with Taxation responsible for administering the collection of the charges and disbursement of the funds.

Wireless 9-1-1 charges

- Reduces the monthly wireless 9-1-1 charge on wireless service subscribers in Ohio from 28¢ to 25¢, applies the charge only to nonprepaid wireless service subscribers in Ohio, and makes the charge permanent.
- Eliminates the wireless 9-1-1 charge imposed on prepaid wireless service subscribers from December 20, 2012, until July 1, 2013.
- Prohibits imposing the wireless 9-1-1 charge on a wireless lifeline service provider.
- Imposes, effective July 1, 2013, a new wireless 9-1-1 charge on prepaid wireless service subscribers of 0.5% of the sales price for the service.
- Imposes the prepaid wireless 9-1-1 charge at the point of sale, requiring the sellers of prepaid wireless services to collect the charge.

* This version corrects typographical errors.

Collection and remittance of wireless 9-1-1 charges

- Requires sellers of prepaid wireless services, wireless service providers, and resellers to remit the prepaid and nonprepaid wireless 9-1-1 charges to the Tax Commissioner.
- Specifies that sellers of prepaid services are subject to sales-tax requirements regarding audits, assessments, appeals, enforcement, liability, and penalties, and transfers duties related to audits of providers and resellers of nonprepaid services from the Public Utilities Commission to the Tax Commissioner.
- Requires a seller of prepaid services to file returns for remittances electronically using the Ohio Business Gateway, the Ohio Telefile System, or any other electronic means required by the Tax Commissioner, unless excused for good cause shown.
- Permits sellers of prepaid services to retain a 3% collection fee before remitting the prepaid charges.
- Requires the Tax Commissioner to provide all known sellers of prepaid services, wireless service providers, and resellers with notice of any increase or decrease in the amount of the prepaid or nonprepaid charge.

Disbursements

- Limits, on and after July 1, 2013, disbursements to counties from the Wireless 9-1-1 Government Assistance Fund to the level disbursed in 2012.
- Requires that the balance of the remittances in the Wireless 9-1-1 Government Assistance Fund be deposited into the Next Generation 9-1-1 Fund, which is a custodial fund in the state treasury established by the act.
- Requires the Treasurer of State to disburse money to counties from the Next Generation 9-1-1 Fund only on order of the Tax Commissioner according to policies established by the Statewide Emergency Services Internet Protocol Network Steering Committee.

Liability

- Excludes providers and sellers of prepaid wireless calling services from civil liability for activities or omissions with regard to a 9-1-1 system or for providing related assistance.
- Relieves providers of prepaid wireless service from liability to the state for any prepaid wireless 9-1-1 charge that was not collected or remitted.

Administration

- Modifies the Wireless 9-1-1 Administrative Fund to permit, effective December 20, 2012, the Department of Public Safety and the Department of Taxation to each receive 1% of the wireless 9-1-1 charges placed in the Fund to cover their costs in carrying out their duties regarding 9-1-1 service.
- Requires the Tax Commissioner and the Director of Public Safety annually to transfer any excess amounts from the Wireless 9-1-1 Administrative Fund to the Wireless 9-1-1 Government Assistance Fund, which is the main fund for the deposit of the wireless 9-1-1 charges.
- Replaces the Ohio 9-1-1 Coordinator with a representative of public safety communications officials, as a member of the Ohio 9-1-1 Council, effective December 20, 2012.
- Makes the Director of Public Safety responsible for appointing the Ohio 9-1-1 Coordinator and modifies the powers and duties of the Coordinator.
- Grants rule-making authority under the Administrative Procedure Act to the Tax Commissioner and the Director of Public Safety, to be exercised in consultation with each other, to carry out Ohio's 9-1-1 service law.

Steering Committee and public safety answering points

- Changes the due date of the Steering Committee's initial report to the Speaker of the House, the President of the Senate, and the Governor, providing recommendations regarding development of a statewide emergency services network, from November 15, 2012, to May 15, 2013.
- Requires the report recommendations to include a review of the current funding model for Ohio's 9-1-1 systems and permits the report to include a recommendation for a reduction in the wireless 9-1-1 charges modified and established by the act.
- Requires the report recommendation regarding consolidation of operations of public safety answering points (PSAPs) in Ohio to also include recommendations for accelerating the consolidation of PSAP fund usage that the act requires.
- Progressively limits the number of PSAPs in each county for which disbursements from the 9-1-1 charges may be used, ultimately limiting the number to three PSAPs in 2018 (or four PSAPs if the county includes a municipal corporation with a population of more than 175,000).

- Requires, not later than February 15, 2013, each countywide 9-1-1 planning committee chair, or designee, to report to the Steering Committee, certain geographic, demographic, statistical, expenditure, network, and other information, as required by the Steering Committee.
- Provides for the Steering Committee to penalize any county that does not make a timely report as described above by causing the suspension of disbursements from the Wireless 9-1-1 Government Assistance Fund.
- Requires, not later than January 1, 2014, that the Steering Committee adopt rules under the Administrative Procedure Act that establish technical and operations standards for PSAPs eligible to receive disbursements from the Wireless 9-1-1 Government Assistance Fund.
- Requires PSAPs to comply with the new Steering Committee standards not later than two years after the effective date of the rules.
- Prohibits disbursements to a countywide 9-1-1 system for PSAP costs from the Wireless 9-1-1 Government Assistance Fund or the Next Generation 9-1-1 Fund unless the PSAP complies with the rules establishing the technical and operations standards.
- Requires the Steering Committee to establish guidelines for the Tax Commissioner to use when disbursing money to counties from the Next Generation 9-1-1 Fund, which guidelines must be consistent with the PSAP technical and operations standards and specify for what the funds may be used.
- Permits the Auditor of State to audit and review county expenditures of disbursed funds from the Wireless 9-1-1 Government Assistance Fund to verify the money was used in accordance with the law.

Wireline 9-1-1 provisions

- Requires the Tax Commissioner to determine the just, reasonable, and compensatory rates that telephone companies may charge for the telephone network portion of a basic or enhanced 9-1-1 system.
- Requires the Department of Public Safety to determine whether a telephone company is capable of reasonably meeting the technical and economic requirements of providing the wireline telephone network portion of a countywide 9-1-1 system.

Recodification

- Recodifies all Revised Code sections addressing wireline and wireless 9-1-1 to Chapter 5507. of the Revised Code.

Emergency

- Declares an emergency.

Provisions altered by Am. Sub. H.B. 472

- Contains numerous provisions that were immediately altered by Am. Sub. H.B. 472 of the 129th General Assembly.

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CONTENT AND OPERATION

Note: certain provisions immediately altered by Am. Sub. H.B. 472

Numerous provisions of this act were immediately altered by Am. Sub. H.B. 472, which was an emergency measure that took effect on the same day as this act (December 20, 2012). Still, this analysis examines only the changes made by this act.

Alterations made by Am. Sub. H.B. 472 include the following:

- Requires continuous imposition of the monthly wireless 9-1-1 charge on prepaid subscribers.
- Delays some administrative duties of the Tax Commissioner until 2014, and requires that certain duties remain with the Public Utilities Commission (PUCO) until then.
- Maintains the requirement that the PUCO determine the rates for the wireline telephone network portion of a 9-1-1 system.
- Terminates the 9-1-1 Service Program and the position of the Ohio 9-1-1 Coordinator, effective January 1, 2014.
- Modifies the membership of the Ohio 9-1-1 Council.
- Alters provisions governing remittance of the wireless 9-1-1 charges to the Tax Commissioner, as well as the related audit and assessment provisions.
- Alters liability provisions.
- Changes requirements for how disbursements must be made.

- Changes requirements for how disbursements from the Next Generation 9-1-1 Fund may be used.
- Limits the number of public safety answering points that may use disbursements from the Next Generation 9-1-1 Fund.
- Requires the Department of Public Safety to monitor compliance with technical and operation standards for public safety answering points set by rule of the Statewide Emergency Services Internet Protocol Network Steering Committee.
- Changes the administrative-funding provisions for the Departments of Taxation and Public Safety.
- Appropriates \$1,174,000 from the General Revenue Fund to the Department of Taxation for operating expenses, effective December 20, 2012.
- Changes the rule-making provisions.
- Corrects certain errors in Sub. H.B. 360.

The final analysis for Am. Sub. H.B. 472 provides a full explanation of those alterations.

Transfer of 9-1-1 duties

The act transfers administrative duties regarding the 9-1-1 service law from the PUCO to the Department of Public Safety and the Department of Taxation. Under the act, this transfer generally takes effect on December 20, 2012. The act gives the Department of Taxation most of the authority with regard to collection and disbursement of the wireless 9-1-1 charges.¹

Changes to the 9-1-1 wireless charge

This act changes the method of collection of the wireless 9-1-1 charge on prepaid wireless subscribers by requiring sellers of prepaid wireless services to collect the charge at the point of sale, rather than requiring collection by prepaid providers or resellers. Under prior law, there was one wireless 9-1-1 charge, imposed on all wireless subscribers (including prepaid) with Ohio billing addresses, at 28¢ per month, and collected by wireless service providers or resellers. The act creates a distinction between the prepaid charge and the nonprepaid charge. The act also changes the amounts of the charges, making the prepaid charge 0.5% of the sale price of the prepaid services, and decreasing the nonprepaid charge to 25¢ per month.

¹ R.C. Chapter 5507., R.C. 5733.55, and Section 3 of the act.

The act's prepaid charge does not take effect until July 1, 2013. The act terminates the prior-law charge as to prepaid subscribers effective December 20, 2012, so that no wireless 9-1-1 charge is to be imposed on prepaid subscribers during the interim period. The act also makes both charges — the prepaid charge and the nonprepaid charge — permanent. Under prior law, the wireless 9-1-1 charge was required to expire at the end of 2012.²

Requirement imposed on sellers of prepaid services

The act requires the seller of a "prepaid wireless calling service" to collect the prepaid wireless 9-1-1 charge (which takes effect July 1, 2013) from the consumer at the time of each retail sale.³ A "prepaid wireless calling service" is defined as a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units of dollars of which the number declines with use in a known amount.⁴ The seller must collect the charge at the time of the retail sale and itemize the charge on the receipt, invoice, or similar form of written documentation.⁵ The act gives "retail sale" the same meaning as in the sales-tax law, which includes all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.⁶

The act contains specific provisions for when a prepaid wireless calling service is sold with one or more other products or services for a single, nonitemized price, such as when a prepaid mobile phone is sold with free minutes upon activation. In this case, the act requires the prepaid charge to be imposed on the *entire* sale price, with the following exceptions:

- The seller may impose the charge on only the dollar amount of the prepaid wireless calling service if that amount is disclosed to the consumer.

² R.C. 5507.42 and Section 3 of the act; R.C. 4931.61 under prior law.

³ R.C. 5507.42.

⁴ R.C. 5507.01(X); R.C. 5739.01(AA)(5) (not in the act).

⁵ R.C. 5507.42(B)(3).

⁶ R.C. 5507.01(Z); R.C. 5739.01(E) (not in the act).

- The seller may impose the charge only on the portion of the price attributed to the prepaid wireless calling service if the seller can identify that portion by reasonable and verifiable standards.
- The seller is permitted *not to collect* the charge at all if the amount of the prepaid wireless calling service is ten minutes or less or \$5 or less.⁷

The act specifies that a retail sale occurs in Ohio if it is effected by the consumer appearing at a seller's business location in Ohio. The act also permits sales to be sourced in the same manner as for sales tax purposes, except that the seller may elect to source the sale to the location associated with the mobile phone number.⁸

Prior law required wireless service providers or resellers to collect the wireless 9-1-1 charge from prepaid subscribers in one of the following manners:

- at the point of sale, such as when a subscriber purchases additional minutes;
- by reducing a subscriber's positive account balance at the beginning of a month; or
- by taking the amount due out of the provider's or reseller's earned prepaid revenue.⁹

Wireless lifeline service providers

The act prohibits "the wireless 9-1-1 charge" from being imposed on a wireless lifeline service provider. But, continuing law describes the nonprepaid charge as being imposed on the wireless subscribers, and not the providers. The prepaid charge is described as being imposed on each retail sale of a prepaid wireless calling service.¹⁰

Remittance of charges

Remittance by prepaid sellers

The act requires sellers of prepaid services to, by the 23rd of each month, make and file a return showing the amount of prepaid charges collected in the previous month, and remit the full amount due to the Department of Taxation. Sellers may

⁷ R.C. 5507.42(B)(4).

⁸ R.C. 5507.42(B)(2).

⁹ R.C. 4931.61(A) under prior law.

¹⁰ R.C. 5507.42.

retain a collection fee of 3% of the total charges collected and must account for the retained amount to the Tax Commissioner. The Tax Commissioner may authorize a seller to make and file returns less frequently if collected charges do not merit monthly returns, based on administrative costs to the state.

The return must be filed electronically using the Ohio Business Gateway, the Ohio Telefile System, or any other electronic means prescribed by the Tax Commissioner, unless the Commissioner excuses a seller, for good cause shown, from the electronic-filing requirement. Payment must be made electronically (unless the seller is excused for good cause shown) in a manner approved by the Tax Commissioner. The Tax Commissioner may extend the time for making and filing returns and paying amounts due. The act also permits the Tax Commissioner to require that the return for the last month of any annual or semiannual period be a reconciliation return detailing the prepaid charges collected during the preceding annual or semiannual period. The act would require the reconciliation return to be filed by the last day of the month following the last month of the annual or semiannual period.¹¹

Under prior law, the wireless 9-1-1 charges were required to be remitted directly to the Ohio 9-1-1 Coordinator, within the PUCO, on a monthly basis.¹²

The act specifies that sellers (beginning July 1, 2013) are subject to the sales-tax requirements, as those requirements apply to audits, assessments, appeals, enforcement, liability, and penalties. The act requires the Tax Commissioner to establish procedures by which a person may document that a sale is not a retail sale subject to the act's requirements. These procedures must substantially coincide with similar sales-tax procedures.¹³

Remittance by providers and resellers of nonprepaid wireless services

The act requires that providers and resellers of nonprepaid wireless services remit collected nonprepaid wireless charges to the Tax Commissioner, beginning December 20, 2012.¹⁴ Under prior law, providers and resellers were required to remit collected wireless charges to the Ohio 9-1-1 Coordinator.¹⁵ Similarly, the act permits the Tax Commissioner, rather than the PUCO, to audit providers and resellers for failure to bill, collect, or remit charges. The act also permits the Tax Commissioner to assess

¹¹ R.C. 5507.46(B) and (C).

¹² R.C. 4931.62(A) under prior law.

¹³ R.C. 5507.52.

¹⁴ R.C. 5507.46(A) and Section 3 of the act.

¹⁵ R.C. 4931.62 under prior law.

providers or resellers for determined failures to bill, collect, or remit charges. The assessment provisions remain the same as under prior law, which had placed the assessment authority with the PUCO.¹⁶

Transfers to funds by the Department of Taxation

Beginning July 1, 2013, the Department of Taxation is required to transfer the remitted wireless 9-1-1 charges directly to the appropriate funds. Specifically, the Department must, within 45 days after the end of each month, transfer 1% of the remitted charges to the Wireless 9-1-1 Administrative Fund in the state treasury, which funds state-government costs of administering the 9-1-1 service law (see "**Funding for administrative** costs," below). Within the same 45-day time period, the Department must transfer the remaining amount to the Wireless 9-1-1 Government Assistance Fund (a custodial fund of the State Treasurer), which funds local costs of providing wireless 9-1-1 service.¹⁷ Monthly disbursements are made from this fund to counties that have adopted final plans for wireless enhanced 9-1-1 systems. The act requires the Department, immediately upon completion of the transfer, to certify to the Director of Public Safety the amounts transferred to the Wireless 9-1-1 Government Assistance Fund.¹⁸

Under prior law, up to 2% of the remitted wireless 9-1-1 charges were required to go to the Wireless 9-1-1 Administrative Fund, which funded the PUCO's administrative costs, and the remainder was required to be deposited into the Wireless 9-1-1 Government Assistance Fund.¹⁹

Notice requirement for change in the wireless – charge amount

The act requires the Tax Commissioner, beginning July 1, 2013, to give all known sellers of prepaid wireless calling services, wireless service providers, and wireless service resellers notice of any increase or decrease in either of the wireless 9-1-1 charges, at least 30 days before the increase or decrease would take effect.²⁰

¹⁶ R.C. 5507.46(E).

¹⁷ R.C. 5507.51.

¹⁸ R.C. 5507.51(B) and 5507.55.

¹⁹ R.C. 4931.63 under prior law.

²⁰ R.C. 5507.44.

Funding for administrative costs

Funding for the Departments of Taxation and Public Safety

As stated above, the act requires the Department of Taxation to transfer 1% of the remitted wireless 9-1-1 charges to the Wireless 9-1-1 Administrative Fund. It also states that the fund is to be used for defraying the Department's administrative costs.²¹ In another provision, the act requires that periodic remittances of the charges be deposited to the credit of the fund and used as follows: 1% by the Department of Taxation for its administrative costs and another 1% by the Department of Public Safety for its administrative costs.²²

Transfer of excess administrative funds

The act requires the Tax Commissioner and the Director of Public Safety to annually transfer any excess remaining in the Wireless 9-1-1 Administrative Fund to the Wireless 9-1-1 Government Assistance Fund.²³

Disbursement of charges

Disbursements from the Wireless 9-1-1 Government Assistance Fund

Administration

The act requires the Tax Commissioner, rather than the Ohio 9-1-1 Coordinator, to make the disbursements to counties from the Wireless 9-1-1 Government Assistance Fund and to administer the fund. Similarly, the act requires the Tax Commissioner, rather than the Ohio 9-1-1 Coordinator, to receive certifications that a subdivision or regional council of governments has paid the basic costs for which disbursements from the fund may be used for. After this certification is made, the subdivision or council may use disbursements from the fund to pay personnel costs of public safety answering points providing countywide wireless enhanced 9-1-1 service. Under the act, these changes are effective December 20, 2012.²⁴

²¹ R.C. 5507.51(A).

²² R.C. 5507.53(A).

²³ R.C. 5507.53(A)(3).

²⁴ R.C. 5507.40, 5507.53(B), 5507.55, and 5507.57(B) and (C) and Section 3 of the act; R.C. 4931.60, 4931.63(B), 4931.64 and 4931.65(B) and (C) under prior law.

Level of disbursements

The act requires, beginning July 1, 2013, that disbursements from the Wireless 9-1-1 Government Assistance Fund remain at the level disbursed in 2012.²⁵

Disbursements conditional on meeting committee standards

The act prohibits disbursements from the Wireless 9-1-1 Government Assistance Fund unless "the public safety answering point" meets the standards set by rule of the Statewide Emergency Services Internet Protocol Network Steering Committee. This provision of the act refers to the creation statute of the Committee, which does not expressly provide for the adoption of any standards.²⁶ However, another statute requires the Committee to adopt rules by 2014, in accordance with the Administrative Procedure Act, that establish technical and operational standards for public safety answering points eligible to receive disbursements from the Wireless 9-1-1 Government Assistance Fund. The rules must incorporate industry standards and best practices for wireless 9-1-1 services. The act requires that public safety answering points comply with the standards not later than two years after the effective date of the rules.²⁷

Limitations on how many answering points may use disbursements

The act progressively limits the number of public safety answering points within a 9-1-1 system that may use disbursements from the Wireless 9-1-1 Government Assistance Fund to pay allowable costs, as follows:

Years	Maximum number of answering points that may use disbursements per calendar year
Before 2016	Five
2016 and 2017	Four*
2018 and subsequent years	Three*

** If there is a municipal corporation with a population over 175,000, that county may use disbursements for one public safety answering point in addition to the maximum permitted for that period.*

If a county exceeds the maximum number, disbursements to the county from the Wireless 9-1-1 Government Assistance Fund and the Next Generation 9-1-1 Fund (see

²⁵ R.C. 5507.55(F).

²⁶ R.C. 5507.02 and 5507.57(E).

²⁷ R.C. 5507.021.

"Disbursements from the Next Generation 9-1-1 Fund," below) are required to be reduced by 50% until the county complies with the limitations.

Prior law stated that payment of allowable costs (payable from a disbursement from the Wireless 9-1-1 Government Assistance Fund) was limited to those costs for not more than five public safety answering points.²⁸

Audit and review of county expenditures

The act permits the Auditor of State to audit and review each county's expenditures of funds received from the Wireless 9-1-1 Government Assistance Fund to verify that the funds were used in accordance with the requirements of the 9-1-1 service law.²⁹

Removal of limitation for costs incurred before March 2, 2009

The act removes a provision that appears to have prohibited counties from using disbursements from the Wireless 9-1-1 Government Assistance Fund to pay costs incurred before March 2, 2009.³⁰

Certification of amount in fund

The act requires that the Treasurer of State annually certify to the Department of Public Safety and the Tax Commissioner, rather than the Ohio 9-1-1 Coordinator, the amount of money in the Wireless 9-1-1 Government Assistance Fund, until the fund is depleted.³¹

Disbursements from the Next Generation 9-1-1 Fund

Creation of the fund

The act creates the Next Generation 9-1-1 Fund as a custodial fund of the State Treasurer. It retains the interest earned.³²

²⁸ R.C. 5507.571; R.C. 4931.651 under prior law.

²⁹ R.C. 5507.57(F).

³⁰ R.C. 5507.571(A).

³¹ R.C. 5507.53(B).

³² R.C. 5507.53(C).

Funding source

The act requires that after the disbursements are made from the Wireless 9-1-1 Government Assistance Fund, any funds remaining in that fund must be deposited to the credit of the Next Generation 9-1-1 Fund.³³

Administration

The act requires the Treasurer of State to disburse money from the Next Generation 9-1-1 Fund solely upon order of the Tax Commissioner according to "policies" established by the Statewide Emergency Services Internet Protocol Network Steering Committee.³⁴ In a separate provision, the act requires the Committee to establish guidelines for the Tax Commissioner to use when disbursing money from the fund to countywide 9-1-1 systems. The guidelines must be consistent with the technical and operational standards adopted by the Committee for public safety answering points (see "**Disbursements conditional on meeting committee standards**," above). The guidelines must also specify that disbursements may be used for costs associated with the operation of and equipment for phase II wireless systems and for costs associated with a county's migration to next generation 9-1-1 systems and technology.³⁵

Annually, until the fund is depleted, the Treasurer of State is required to certify to the Tax Commissioner the amount of moneys in the fund.³⁶

Disbursements conditional on meeting committee standards

The act prohibits disbursements from the Next Generation 9-1-1 Fund (in addition to disbursements from the Wireless 9-1-1 Government Assistance Fund) unless "the public safety answering point" meets the standards set by rule of the Statewide Emergency Services Internet Protocol Network Steering Committee.³⁷ (See "**Disbursements conditional on meeting committee standards**," above under "**Disbursements from the Wireless 9-1-1 Government Assistance Fund**.")

9-1-1 Service Program and Ohio 9-1-1 Coordinator

The act places the 9-1-1 Service Program (which does not have any express statutory functions or purposes) in the Department of Public Safety, rather than in the

³³ R.C. 5507.53(C) and 5507.55(F).

³⁴ R.C. 5507.53(C).

³⁵ R.C. 5507.022.

³⁶ R.C. 5507.53(C).

³⁷ R.C. 5507.57(E).

PUCO. The act also makes the Director of Public Safety head of the Program, in consultation with the Ohio 9-1-1 Coordinator. Under prior law, the Ohio 9-1-1 Coordinator was head of the program. The act requires the Director to appoint the Coordinator, and likewise requires the Director to fix the Coordinator's salary, evaluate the Coordinator's performance, establish additional duties of the Coordinator, and assign Department employees to assist the Coordinator. Under prior law, the appointment and these other functions were duties of the Chairperson of the PUCO.

The act requires the Director of Public Safety to appoint an interim Coordinator on December 20, 2012.³⁸

Statewide Emergency Services Internet Protocol Network Steering Committee

Report to General Assembly leadership and the Governor

The act clarifies that the report of the Statewide Emergency Services Internet Protocol Network Steering Committee, which was required under prior law, must provide recommendations that include a review of the current funding model for Ohio's 9-1-1 systems. The act also specifies that the Committee may recommend in the report a reduction in wireless 9-1-1 charges. The report is to be delivered to the Speaker of the House of Representatives, the President of the Senate, and the Governor. The act also delays the report deadline from November 15, 2012, to May 15, 2013.³⁹

Recommendations for accelerating the consolidation schedule

The act requires the Committee to make recommendations for accelerating the consolidation schedule for the number of public safety answering points that may use disbursements from the Wireless 9-1-1 Government Assistance Fund.⁴⁰ (See "**Limitations on how many answering points may use disbursements**," above.)

County report requirement

The act requires each chairperson of a countywide 9-1-1 planning committee (or the chairperson's designee) to report information to the Statewide Emergency Services Internet Protocol Network Steering Committee. The report is due February 15, 2013. It must include:

³⁸ R.C. 5507.40 and Section 3 of the act; R.C. 4931.60 under prior law.

³⁹ R.C. 5507.02(C)(1).

⁴⁰ R.C. 5507.02(C)(4).

- the geographic location and population of the area for which the planning committee is responsible;
- statistics detailing the number of 9-1-1 calls received;
- a report of expenditures made from disbursements from the Wireless 9-1-1 Government Assistance Fund;
- an inventory of and the technical specifications for the current 9-1-1 network and equipment;
- any other information requested by the Steering Committee.

For the second and third items, the act does not specify for what time period (if any) the information is required.

If a planning committee fails to provide the report by the due date, the Steering Committee must notify the Tax Commissioner. The Tax Commissioner must then suspend disbursements from the Wireless 9-1-1 Government Assistance Fund to that county. Disbursements are to resume after the required information is received and the Tax Commissioner is notified.⁴¹

General wireless 9-1-1 reporting requirement

The act requires that the Director of Public Safety and the Tax Commissioner, rather than the Ohio 9-1-1 Coordinator, be provided information that they may request for the purposes of carrying out their duties under the 9-1-1 service law. The entities subject to this requirement are telephone companies, the State Highway Patrol, and each subdivision or regional council of governments operating one or more public safety answering points for a countywide system providing wireless 9-1-1.

Consequently, the act prohibits the Director and the Tax Commissioner (rather than the PUCO and the Coordinator), and any official, employee, agent, or representative, from disclosing information regarding a telephone company's customers, revenues, expenses, or network information.⁴²

Liability limitations

The act specifies that except for willful or wanton misconduct, a provider of and a seller of a prepaid wireless calling service and their respective officers, directors,

⁴¹ R.C. 5507.02(D).

⁴² R.C. 5507.60(A)(1) and (B)(2); R.C. 4931.66(A)(1) and (B)(2) under prior law.

employees, agents, and suppliers are not liable in civil damages resulting from participation in or acts or omissions in connection with participating in or developing, maintaining, or operating a 9-1-1 system, or from the provision of assistance to a public utility, municipal utility, or state or local government during a public emergency or service outage.⁴³

The act specifies that no provider of a prepaid wireless calling service is liable to the state for any prepaid charges not collected or remitted.⁴⁴ It defines a provider of a prepaid wireless calling service as a wireless service provider that provides a prepaid wireless calling service.⁴⁵

Rule-making authority

The act requires the Tax Commissioner and the Director of Public Safety, after consulting each other, to adopt rules under the Administrative Procedure Act to carry out the act's provisions regarding wireless 9-1-1 charge collection, remittance, and disbursements, and the 9-1-1 Service Program.⁴⁶

Wireless 9-1-1 Advisory Board

The act requires the Director of Public Safety, rather than the Ohio 9-1-1 Coordinator, to appoint the chairperson of the Wireless 9-1-1 Advisory Board. The Board is required to consult with and make recommendations to the Director (rather than the PUCO and the 9-1-1 Coordinator as required under prior law) regarding rules to be adopted.⁴⁷

Ohio 9-1-1 Council

The act replaces the Ohio 9-1-1 Coordinator, as a member of the Ohio 9-1-1 Council, with a representative of public safety communications officials in Ohio, appointed by the Governor. The act also permits the Director of Public Safety to serve as a Council member. Prior law required only a designee of the Director to serve; the act changes this provision to require, as a member, the Director *or* the Director's designee.

⁴³ R.C. 5507.32.

⁴⁴ R.C. 5507.46(D).

⁴⁵ R.C. 5507.01(Y).

⁴⁶ R.C. 5507.63.

⁴⁷ R.C. 5507.66; R.C. 4931.69 under prior law.

Under continuing law, duties of the Council include arbitrating or establishing technical and operational standards for Ohio's 9-1-1 systems, doing research and making recommendations, and nominating candidates for the position of the Ohio 9-1-1 Coordinator. The act changes a reference to the Council's duties from "all of the following" to "*both* of the following." But the number of duties remains unchanged.⁴⁸

Rates for the wireline 9-1-1 network

The act requires the Tax Commissioner, rather than the PUCO, to determine the rates, tolls, classifications, charges, or rentals to be observed and charged for the wireline telephone network portion of a 9-1-1 system. Relatedly, the act removes provisions requiring that those rates be determined in accordance with law governing the PUCO and public utilities. The act also removes a provision specifying that wireline telephone companies are subject to that law, to the extent that it applies, as to the service provided by the 9-1-1 wireline network and as to the rates, tolls, classifications, charges, or rentals.⁴⁹ The act also removes a requirement that telephone companies must file schedules of their wireline 9-1-1 rates with the PUCO.⁵⁰ But continuing law refers to those schedules.⁵¹

Additional duties given to the Department of Public Safety

Determinations regarding wireline 9-1-1 service

The act requires the Department of Public Safety, rather than the PUCO, to make determinations as to whether wireline telephone companies are capable of providing a county's wireline telephone network portion of a 9-1-1 system, and to make related determinations.⁵²

Assistance regarding monthly charges on telephone access lines

The act permits counties to seek the assistance of the Department of Public Safety, rather than the PUCO, in complying with requirements for the use of money raised from monthly charges on telephone access lines. These charges are permitted

⁴⁸ R.C. 5507.65; R.C. 4931.68 under prior law.

⁴⁹ R.C. 5507.18(A); conforming change in 5733.55(A)(2); R.C. 4931.47 under prior law.

⁵⁰ R.C. 4905.30; conforming change in R.C. 5507.32(C)(1).

⁵¹ R.C. 5507.18(B).

⁵² R.C. 5507.03(A)(2) and (H), 5507.07(C), and 5507.09(C); conforming change in R.C. 5507.18(C)(2)(b); R.C. 4931.42(A)(2) and (H), 4931.43(C), and R.C. 4931.48(C) under prior law.

under continuing law in certain circumstances to establish and maintain a limited number of public safety answering points.⁵³

Jurisdiction regarding disclosure of certain information

The act replaces the PUCO with the Department of Public Safety as the agency having jurisdiction over the charge, terms, and conditions for the disclosure or use of certain confidential data in two exceptional situations. Continuing law prohibits, with certain exceptions, the disclosure or use of any information concerning telephone numbers, addresses, or names obtained from the database that serves the public safety answering point of a 9-1-1 system. The two exceptions modified by the act are:

- in times of public emergency or service outage when a wireline telephone company gives access to a database to a public utility or municipal utility handling customer calls; and
- in warning of a public emergency when a wireline telephone company gives access to a database to a state and local government.

The act also replaces the PUCO with the Department of Public Safety as the agency that makes the determination of "in warning of a public emergency."⁵⁴

Attorney General proceedings

The act permits the Department of Public Safety or the Tax Commissioner, rather than the PUCO, to request that the Attorney General begin proceedings against a wireline telephone company to enforce compliance with the wireless 9-1-1 service law or with a county's plan for its 9-1-1 system or of an agreement between the company and a municipal corporation or township as to wireline or wireless 9-1-1.⁵⁵

Emergency clause

The act declares an emergency and therefore became effective immediately (December 20, 2012) and is exempt from the referendum.⁵⁶

⁵³ R.C. 5507.25 and R.C. 5507.26; R.C. 4931.52 and 4931.53 under prior law.

⁵⁴ R.C. 5507.32(G); R.C. 4931.49(G) under prior law.

⁵⁵ R.C. 5507.34(A); R.C. 4931.50(A) under prior law.

⁵⁶ Section 3 of the act.

Repeal of report requirement

The act repeals an expired requirement that the Ohio 9-1-1 Coordinator submit a report to the General Assembly regarding wireless 9-1-1 in Ohio.⁵⁷

Recodification and related changes

Due to the transfer of administrative duties regarding the 9-1-1 service law from the PUCO to the Department of Public Safety, the act recodifies the 9-1-1 service law in Chapter 5507. of the Revised Code.⁵⁸ It also makes a related recodification of a statute within the chapter that formerly contained the 9-1-1 service law. That recodified statute addresses unsolicited facsimile transmissions.⁵⁹ Finally, the act removes references to the 9-1-1 service law in statutes addressing the PUCO's authority.⁶⁰

Corrective change

The act corrects a reference to a statute establishing regional authority for emergency management.⁶¹

HISTORY

ACTION	DATE
Introduced	11-01-11
Reported, H. Public Utilities	03-28-12
Passed House (96-0)	05-15-12
Reported, S. Energy & Public Utilities	12-05-12
Passed Senate (28-5)	12-05-12
House concurred in Senate amendments (88-4)	12-11-12

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⁵⁷ R.C. 4931.70 (repealed); conforming changes in R.C. 167.03, 4927.03, 4927.15, 5507.01, 5507.03, 5507.08, 5507.32, 5507.34, 5507.40, 5507.53, 5507.55, 5507.57, 5507.60, 5507.63, and 5507.66.

⁵⁸ R.C. Chapter 5507.; conforming changes in R.C. 167.03, 2913.01, 4742.01, 4931.99(A), 5705.19, and 5733.55.

⁵⁹ R.C. 4931.10 (formerly R.C. 4931.75); conforming changes in R.C. 2307.64(A)(1), 4931.99(B), and 5507.99(D).

⁶⁰ R.C. 4927.03(B)(1)(a) and 4927.15(A).

⁶¹ R.C. 3745.13(A).

