

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 423

An Act to amend and reenact §§ 2.2-2423, 56-484.12, 56-484.13, 56-484.14, and 56-484.17 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 44-146.18:5 through 44-146.18:9, and to repeal §§ 2.2-2025 through 2.2-2031 of the Code of Virginia, relating to the Virginia Geographic Information Network; transfer of responsibilities from the Virginia Information Technologies Agency to the Virginia Department of Emergency Management.

[H 1003]

Approved March 23, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2423, 56-484.12, 56-484.13, 56-484.14, and 56-484.17 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 44-146.18:5 through 44-146.18:9 as follows:

§ 2.2-2423. Virginia Geographic Information Network Advisory Board; membership; terms; quorum; compensation and expenses.

A. The Virginia Geographic Information Network Advisory Board (the Board) is hereby established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall advise the Geographic Information Network Division (the Division) of the ~~Virginia Information Technologies Agency~~ *Department of Emergency Management* on issues related to the exercise of the Division's powers and duties.

B. The Board shall consist of ~~16~~ 17 members appointed as follows: seven nonlegislative citizen members to be appointed by the Governor that consist of one agency director from one of the natural resources agencies, one official from a baccalaureate public institution of higher education in the Commonwealth, one elected official representing a local government in the Commonwealth, one member of the Virginia Association of Surveyors, one representative of a utility or transportation industry utilizing geographic data, and two representatives of private businesses with expertise and experience in the establishment, operation, and maintenance of geographic information systems; four members of the House of Delegates to be appointed by the Speaker of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; the Chief Information Officer, *the State Coordinator of Emergency Management*, the Commissioner of Highways, and the Chief Executive Officer of the Economic Development Partnership Authority or their designees who shall serve as ex officio, voting members. Gubernatorial appointees may be nonresidents of the Commonwealth. All members of the Board appointed by the Governor shall be confirmed by each house of the General Assembly. The agency director and official from a baccalaureate public institution of higher education in the Commonwealth appointed by the Governor may each designate a member of his organization as an alternate who may attend meetings in his place and be counted as a member of the Board for the purposes of a quorum.

Any members of the Board who are representatives of private businesses that provide geographic information services, and their companies, are precluded from contracting to provide goods or services to the Division.

C. Legislative members' terms shall be coincident with their terms of office. The gubernatorial appointees to the Board shall serve five-year terms, except for the initial appointees whose terms were staggered. Members appointed by the Governor shall serve no more than two consecutive five-year terms. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility to serve.

D. The Board shall elect from its membership a chairman, vice-chairman, and any other officers deemed necessary. The duties and terms of the officers shall be prescribed by the members. A majority of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its chairman or the ~~Chief Information Officer~~ *State Coordinator of Emergency Management*.

E. Legislative members of the Board shall receive such compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Virginia Geographic Information Network Division of the ~~Virginia Information Technologies Agency~~ *Department of Emergency Management*.

F. The Geographic Information Network Division shall provide staff support to the Board.

§ 44-146.18:5. Division of Public Safety Communications established; appointment of Virginia Public Safety Communications Coordinator; duties of Division.

A. There is established within the Department of Emergency Management a Division of Public Safety Communications (the Division), which shall be headed by a Virginia Public Safety Communications Coordinator, appointed by the State Coordinator with the advice and consent of the 9-1-1 Services Board. The Division shall consist of such personnel as the State Coordinator deems necessary. The operating expenses, administrative costs, and salaries of the employees of the Division shall be paid from the Wireless E-911 Fund created pursuant to § 56-484.17.

B. The Division shall provide staff support to the 9-1-1 Services Board and encourage, promote, and assist in the development and deployment of statewide enhanced emergency telecommunications systems.

§ 44-146.18:6. Geographic Information Network Division established; powers and duties; Division Coordinator.

A. As used in this section, unless the context requires a different meaning:

"Base map data" means the digitized common geographic data that is used by most geographic information systems applications to reference or link attribute or other geographic data.

"Division" means the Geographic Information Network Division.

"Geographic data" means data that contains either coordinates that reference a geographic location or area or attribute data that can be related to a geographic area or location.

"Geographic information system (GIS)" means a computerized system that stores and links geographic data to allow a wide range of information processing and display operations, as well as map production, analysis, and modeling.

B. There is established within the Department of Emergency Management a Geographic Information Network Division (the Division), which shall foster the creative utilization of geographic information and oversee the development of a catalog of GIS data available in the Commonwealth. The Division shall be headed by a Division Coordinator who shall be under the supervision of and report to the State Coordinator of Emergency Management.

C. The powers and duties of the Division shall include:

1. Requesting the services, expertise, supplies, and facilities of the Department of Emergency Management from the State Coordinator of Emergency Management on issues concerning the Division;

2. Accepting grants from the United States government and agencies and instrumentalities thereof and any other source. To those ends, the Division shall have the power to comply with such conditions and execute such agreements as may be necessary or desirable;

3. Fixing, altering, charging, and collecting rates, rentals, and other charges for the use or sale of products of, or services rendered by, the Division, at rates that reflect the fair market value;

4. Soliciting, receiving, and considering proposals for funding projects or initiatives from any state or federal agency, local or regional government, public institution of higher education, nonprofit organization, or private person or corporation;

5. Soliciting and accepting funds, goods, and in-kind services that are part of any accepted project proposal;

6. Establishing ad hoc committees or project teams to investigate related technology or technical issues and providing results and recommendations for Division action; and

7. Establishing such bureaus, sections, or units as the Division deems appropriate to carry out its powers and duties.

D. The Division Coordinator shall:

1. Oversee the development of and recommend to the Department of Emergency Management the development of those policies, standards, and guidelines required to support state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies;

2. Foster the development of a coordinated comprehensive system for providing ready access to electronic state government geographic data products for individuals, businesses, and other entities;

3. Initiate and manage projects or conduct procurement activities relating to the development or acquisition of geographic data or statewide base map data or both;

4. Plan for and coordinate the development or procurement of priority geographic base map data;

5. Develop, maintain, and provide, in the most cost-effective manner, access to the catalog of Virginia geographic data and governmental geographic data users;

6. Provide, upon request, advice and guidance on all agreements and contracts from all branches of state government for geographic data acquisition and design and the installation and maintenance of geographic information systems;

7. Compile a data catalog consisting of descriptions of GIS coverages maintained by individual executive branch and local government agencies. Nothing in this article shall be construed to require that GIS data be physically delivered to the Division. All executive branch agencies that maintain GIS databases shall report to the Division the details of the data that they develop, acquire, and maintain. Each agency shall submit quarterly reports to the Division specifying all updates to existing data as well as all data development and acquisition currently in progress. Data exempt from the Virginia

Freedom of Information Act (§ 2.2-3700 et seq.) need not be reported to the Division.

8. *Identify and collect information and technical requirements to assist the Division in setting priorities for the development of state digital geographic data and base maps that meet the needs of state agencies, institutions of higher education, and local governments;*

9. *Provide services, geographic data products, and access to the repository at rates established by the Division; and*

10. *Ensure the compliance of those policies, standards, and guidelines developed by VITA required to support and govern the security of state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies.*

§ 44-146.18:7. GIS Fund created.

There is hereby created in the state treasury a special nonreverting fund to be known as the GIS Fund, hereafter referred to as the Fund. The Fund shall be established on the books of the Comptroller. All moneys collected pursuant to subsection C of § 44-146.18:6 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the State Coordinator of Emergency Management.

§ 44-146.18:8. Additional powers and duties of the State Coordinator of Emergency Management.

The State Coordinator of Emergency Management shall, on the recommendation of the Division Coordinator, (i) receive and disburse funds; (ii) enter into contracts for the purpose of carrying out the provisions of this article; and (iii) rent office space and procure equipment, goods, and services that are necessary to carry out the provisions of § 44-146.18:6.

§ 44-146.18:9. Nonstock corporation to assist in the development of GIS data.

The Department of Emergency Management is hereby authorized to establish a nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as an instrumentality to assist the Department of Emergency Management and the Division in the development and acquisition of geographic data and statewide base map data. On or before December 1 of each year, the Department of Emergency Management shall report on the activities of the nonstock corporation to the Governor and the General Assembly.

§ 56-484.12. Definitions.

As used in this article, unless the context requires a different meaning:

"Automatic location identification" or "ALI" means a telecommunications network capability that enables the automatic display of information defining the geographical location of the telephone used to place a wireless enhanced 9-1-1 call.

"Automatic number identification" or "ANI" means a telecommunications network capability that enables the automatic display of the telephone number used to place a wireless Enhanced 9-1-1 call.

"Board" means the 9-1-1 Services Board created pursuant to this article.

"Chief Information Officer" or "CIO" means the Chief Information Officer appointed pursuant to § 2.2-2005.

"Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by the Division.

"CMRS" means mobile telecommunications service as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"CMRS provider" means an entity authorized by the Federal Communications Commission to provide CMRS within the Commonwealth.

"Division" means the Division of Public Safety Communications created in § ~~2.2-2031~~ 44-146.18:5.

"Emergency services IP network" or "ESInet" means a shared public safety agency-managed Internet protocol (IP) network that (i) is used for emergency services communications, (ii) provides an IP transport infrastructure that is capable of carrying voice and data and that supports next generation 9-1-1 service core functions such as routing and location validation of emergency service requests, and (iii) is engineered, managed, and intended to support emergency public safety communications and 9-1-1 service.

"Enhanced 9-1-1 service" or "E-911" means a service consisting of telephone network features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated and provides the capability for ANI and ALI features.

"ESInet point of interconnection" means the demarcation point at which the NG9-1-1 Service Provider receives and assumes responsibility for 9-1-1 call traffic from originating service providers.

"Local exchange carrier" means any public service company granted a certificate to furnish public utility service for the provision of local exchange telephone service pursuant to Chapter 10.1 (§ 56-265.1 et seq.) of Title 56.

"Next generation 9-1-1 service" or "NG9-1-1" means a service that (i) consists of coordinated intrastate 9-1-1 IP networks serving residents of the Commonwealth with the routing of emergency service requests, by voice or data, across public safety ESInets; (ii) automatically directs 9-1-1 emergency telephone calls and other emergency service requests in data formats to the appropriate PSAPs by routing using geographical information system data; (iii) provides for ANI and ALI features; and (iv) interconnects with enhanced 9-1-1 service.

"9-1-1 service" includes E-911 and NG9-1-1.

"Originating service provider" means the local exchange carrier, VoIP provider, or CMRS provider that serves the end user over which a 9-1-1 call is made.

"Place of primary use" has the meaning as defined in the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

"Postpaid CMRS" means CMRS that is not prepaid CMRS, as defined in § 56-484.17:1.

"Public safety answering point" or "PSAP" means a facility (i) equipped and staffed on a 24-hour basis to receive and process 9-1-1 calls or (ii) that intends to receive and process 9-1-1 calls and has notified CMRS providers in its jurisdiction of its intention to receive and process such calls.

"VoIP service" means interconnected voice over Internet protocol service as defined in the Code of Federal Regulations, Title 47, Part 9, section 9.3, as amended.

"Wireless E-911 Fund" means a dedicated fund consisting of all moneys collected pursuant to the wireless E-911 surcharge, all prepaid wireless E-911 charges collected pursuant to § 56-484.17:1, and any additional funds otherwise allocated or donated to the Wireless E-911 Fund.

"Wireless E-911 surcharge" means a monthly fee of \$0.75 billed with respect to postpaid CMRS customers by each CMRS provider and CMRS reseller on each CMRS device capable of two-way interactive voice communication.

§ 56-484.13. 9-1-1 Services Board; membership; terms; compensation.

A. The E-911 Services Board, formerly the Wireless E-911 Services Board, is hereby continued as the 9-1-1 Services Board. The Board shall exercise the powers and duties conferred in this article.

B. The 9-1-1 Services Board shall:

1. Support and assist PSAPs in the provision of 9-1-1 operations and services, including through provision of funding and development of best practices;

2. Plan, promote, and assist in the statewide development, deployment, and maintenance of an emergency services IP network that will support future 9-1-1 and other public safety applications and technologies; and

3. Consult and coordinate with PSAPs, state and local public bodies in the Commonwealth, public bodies in other states, CMRS providers, VoIP service providers affiliated with cable companies, and other entities as needed in the exercise of the Board's powers and duties.

C. The Board shall consist of 16 members as follows: the Director of the Virginia Department of Emergency Management, who shall serve as chairman of the Board; the Comptroller, who shall serve as the treasurer of the Board; the Chief Information Officer; and the following 13 members to be appointed by the Governor: one member representing the Virginia State Police; one member representing a local exchange carrier providing E-911 service in Virginia; one member representing VoIP service providers affiliated with cable companies and authorized to transact business in Virginia; two members representing wireless service providers authorized to do business in Virginia; three county, city, or town PSAP directors or managers representing diverse regions of Virginia; one Virginia sheriff; one chief of police; one fire chief; one emergency medical services manager; and one finance officer of a county, city, or town.

D. The Commonwealth Interoperability Coordinator shall serve as an advisor to the Board in the exercise of the powers and duties conferred in this article so as to ensure, among other matters, that enhanced wireless emergency telecommunications services and technologies are compliant with the statewide interoperability strategic plan.

E. All members appointed by the Governor shall serve five-year terms. The CIO and the Comptroller shall serve terms coincident with their terms of office. No gubernatorial appointee shall serve more than two consecutive terms.

F. A majority of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its chairman.

G. Members of the Board shall serve without compensation; however, members of the Board shall be reimbursed for expenses as provided in §§ 2.2-2813 through 2.2-2826.

H. The Division shall provide staff support to the Board. ~~The Geographic Information Network Division created in § 2.2-2026~~ *Division of Public Safety Communications created in § 44-146.18:5* and the Virginia Department of Transportation shall provide such technical advice as the Board requires.

§ 56-484.14. Powers and duties of the 9-1-1 Services Board.

The 9-1-1 Services Board shall have the power and duty to:

1. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, including purchase agreements payable from (i) the Wireless E-911 Fund and (ii) other moneys appropriated for the provision of 9-1-1 services.

2. Pursue all legal remedies to enforce any provision of this article, or any contract entered into pursuant to this article.

3. Develop a comprehensive, statewide enhanced 9-1-1 plan for wireless E-911, VoIP E-911, and any other future communications technologies accessing 9-1-1 for emergency purposes. In constructing and periodically updating this plan as appropriate, the Board shall monitor trends and advances in enhanced wireless, VoIP, and other emergency telecommunications technologies, plan and forecast future needs for these enhanced technologies, and formulate strategies for the efficient and effective delivery of 9-1-1 services in the future.

4. Grant such extensions of time for compliance with the provisions of § 56-484.16 as the Board deems appropriate.

5. Take all steps necessary to inform the public of the use of the digits "9-1-1" as the designated emergency telephone number and the use of the digits "#-7-7" as a designated non-emergency telephone number.

6. Report annually to the Governor, the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission on (i) the state of enhanced 9-1-1 services in the Commonwealth, (ii) the impact of, or need for, legislation affecting enhanced 9-1-1 services in the Commonwealth, and (iii) the need for changes in the E-911 funding mechanism provided to the Board, as appropriate.

7. Provide advisory technical assistance to PSAPs and state and local law enforcement, and fire and emergency medical services agencies, upon request.

8. Collect, distribute, and withhold moneys from the Wireless E-911 Fund as provided in this article.

9. Develop a comprehensive single, statewide electronic addressing database to support geographic data and statewide base map data programs pursuant to ~~§ 2-2-2027~~ *subsection D of § 44-146.18:6*.

10. Receive such funds as may be appropriated for purposes consistent with this article and such gifts, donations, grants, bequests, or other funds as may be received from, applied for or offered by either public or private sources.

11. Manage other moneys appropriated for the provision of enhanced emergency telecommunications services.

12. Perform all acts necessary, convenient, or desirable to carrying out the purposes of this article.

13. Drawing from the work of 9-1-1 professional organizations, in its sole discretion, publish best practices for PSAPs. These best practices shall be voluntary and recommended by a subcommittee composed of PSAP representatives.

14. Develop or adopt and publish standards for an emergency services IP network and core NG9-1-1 services on that network to ensure that enhanced public safety telephone services seamlessly interoperate within the Commonwealth and with surrounding states.

15. Monitor developments in 9-1-1 service and multiline telephone systems and the impact of such technologies upon the implementation of Article 8 (§ 56-484.19 et seq.). The Board shall include its assessment of such impact in the annual report filed pursuant to subdivision 6.

§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in ~~§ 2-2-2031~~ *44-146.18:5*, moneys in the Fund shall be used for the purposes stated in subsections C and D. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner or the ~~Chief Information Officer of the Commonwealth~~ *State Coordinator of Emergency Management*.

B. Each CMRS provider and each CMRS reseller shall collect a wireless E-911 surcharge from each of its customers whose place of primary use is within the Commonwealth. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Department of Taxation. The Department of Taxation, after subtracting its direct costs of administration, shall deposit all remitted wireless E-911 surcharges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the wireless E-911 surcharges collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers shall be subject to the provisions of the federal Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended).

The CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

C. Sixty percent of the Wireless E-911 Fund shall be distributed on a monthly basis to the PSAPs according to each PSAP's average pro rata distribution from the Wireless E-911 Fund for fiscal years 2007-2012, taking into account any funding adjustments made pursuant to subsection E. On or before July 1, 2018, and every five years thereafter, the Department of Taxation shall recalculate the

distribution percentage for each PSAP based on the population and call load data of the PSAP for the previous five fiscal years, which data shall continue to be received by the Board and then reported to the Department of Taxation. The distribution from the Wireless E-911 Fund shall be made on a monthly basis to the PSAPs according to such distribution percentage beginning July 1 of such fiscal year.

D. The remaining 40 percent of the Fund shall be distributed to PSAPs or on behalf of PSAPs based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from the Fund, including procedures for determining the amount of a grant and payment schedule; however, priority shall be given to grants that support the deployment and sustainment of NG9-1-1. If requested by an originating service provider, the Board shall execute a contract to reimburse that originating service provider for its costs incurred to deliver 9-1-1 calls to the ESInet points of interconnection. The Board shall ensure that cost is minimized while still achieving necessary 9-1-1 service and ESInet objectives. The Board may retain some or all of this uncommitted funding for an identified 9-1-1 funding need or for a reserve balance pursuant to a reserve balance policy adopted by the Board.

E. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements. Each funding recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during the then-current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding in the then-current fiscal year.

F. The Auditor of Public Accounts, or his legally authorized representatives, shall audit the Wireless E-911 Fund as determined necessary by the Auditor of Public Accounts. The cost of such audit shall be borne by the Board and be payable from the Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission.

G. The special tax authorized by § 58.1-1730 shall not be imposed on consumers of CMRS.

2. That §§ 2.2-2025 through 2.2-2031 of the Code of Virginia are repealed.