

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 165

An Act to amend and reenact § 2.1-1.5 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 15 of Title 56 an article numbered 6, consisting of sections numbered 56-484.8 through 56-484.11, relating to the Wireless Enhanced Public Safety Telephone Service Act.

[H 1331]

Approved March 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-1.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 15 of Title 56 an article numbered 6, consisting of sections numbered 56-484.8 through 56-484.11, as follows:

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

Authorities

Assistive Technology Loan Fund Authority.
Medical College of Virginia Hospitals Authority.
Richmond Eye and Ear Hospital Authority.
Small Business Financing Authority.
State Education Assistance Authority.
Virginia Agriculture Development Authority.
Virginia College Building Authority.
Virginia Economic Development Partnership.
Virginia Education Loan Authority.
Virginia Housing Development Authority.
Virginia Information Providers Network Authority.
Virginia Innovative Technology Authority.
Virginia Port Authority.
Virginia Public Building Authority.
Virginia Public School Authority.
Virginia Resources Authority.
Virginia Student Assistance Authorities.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.
Board of Commissioners, Virginia Port Authority.
Board of Directors, Assistive Technology Loan Fund Authority.
Board of Directors, Medical College of Virginia Hospitals Authority.
Board of Directors, Richmond Eye and Ear Hospital Authority.
Board of Directors, Small Business Financing Authority.
Board of Directors, Virginia Economic Development Partnership.
Board of Directors, Virginia Student Assistance Authorities.
Board of Directors, Virginia Innovative Technology Authority.
Board of Directors, Virginia Resources Authority.
Board of Regents, Gunston Hall Plantation.
Board of Regents, James Monroe Memorial Law Office and Library.
Board of Trustees, Family and Children's Trust Fund.
Board of Trustees, Frontier Culture Museum of Virginia.
Board of Trustees, Jamestown-Yorktown Foundation.
Board of Trustees, Miller School of Albemarle.
Board of Trustees, Rural Virginia Development Foundation.
Board of Trustees, The Science Museum of Virginia.
Board of Trustees, Virginia Museum of Fine Arts.
Board of Trustees, Virginia Museum of Natural History.
Board of Trustees, Virginia Outdoor Foundation.
Board of Visitors, Christopher Newport University.
Board of Visitors, The College of William and Mary in Virginia.
Board of Visitors, George Mason University.
Board of Visitors, Gunston Hall Plantation.
Board of Visitors, James Madison University.

Board of Visitors, Longwood College.
 Board of Visitors, Mary Washington College.
 Board of Visitors to Mount Vernon.
 Board of Visitors, Norfolk State University.
 Board of Visitors, Old Dominion University.
 Board of Visitors, Radford University.
 Board of Visitors, University of Virginia.
 Board of Visitors, Virginia Commonwealth University.
 Board of Visitors, Virginia Military Institute.
 Board of Visitors, Virginia Polytechnic Institute and State University.
 Board of Visitors, Virginia State University.
 Commonwealth Health Research Board.
 Governing Board, Virginia College Building Authority.
 Governing Board, Virginia Public School Authority.
 Library Board, The Library of Virginia.
 Motor Vehicle Dealer Board.
 State Board for Community Colleges, Virginia Community College System.
 Virginia-Israel Advisory Board.
Wireless E-911 Service Board.

Commissions

Advisory Commission on the Virginia Schools for the Deaf and the Blind.
 Alexandria Historical Restoration and Preservation Commission.
 Charitable Gaming Commission.
 Chesapeake Bay Bridge and Tunnel Commission.
 Hampton Roads Sanitation District Commission.

Districts

Chesapeake Bay Bridge and Tunnel District.
 Hampton Roads Sanitation District.

Educational Institutions

Christopher Newport University.
 College of William and Mary in Virginia.
 Frontier Culture Museum of Virginia.
 George Mason University.
 James Madison University.
 Jamestown-Yorktown Foundation.
 Longwood College.
 Mary Washington College.
 Miller School of Albemarle.
 Norfolk State University.
 Old Dominion University.
 Radford University.
 The Library of Virginia.
 The Science Museum of Virginia.
 University of Virginia.
 Virginia Commonwealth University.
 Virginia Community College System.
 Virginia Military Institute.
 Virginia Museum of Fine Arts.
 Virginia Polytechnic Institute and State University.
 Virginia State University.

Foundations

Chippokes Plantation Farm Foundation.
 Rural Virginia Development Foundation.
 Virginia Arts Foundation.
 Virginia Conservation and Recreation Foundation.
 Virginia Historic Preservation Foundation.
 Virginia Outdoor Foundation.

Museum

Virginia Museum of Natural History.

Partnership

A. L. Philpott Manufacturing Extension Partnership.

Plantation

Gunston Hall Plantation.

Article 6.

Wireless Enhanced Public Safety Telephone Service Act.

§ 56-484.8. Definitions.

As used in this chapter:

"Board" means the Wireless E-911 Service Board created pursuant to this chapter.

"CMRS" means "commercial mobile radio service" as defined in Sections 3 (27) and 332 (d) of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, 107 U.S.C. § 312. It includes the term "wireless" and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service or personal communications service.

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

"FCC order" means Federal Communications Commission Order 94-102 (61 Federal Register 40348) and any other FCC order that affects the provision of E-911 service to CMRS customers.

"Public safety answering point" ("PSAP") means a county or municipality that operates a facility equipped and staffed on a twenty-four-hour basis to receive and process 911 service or has notified CMRS providers in its jurisdiction that it intends to operate such a facility.

"Wireless E-911 CMRS costs" means all reasonable direct recurring and nonrecurring capital costs and operating expenses incurred by CMRS providers in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireless E-911 service.

"Wireless E-911 fund" means a dedicated fund consisting of all moneys collected pursuant to the wireless E-911 surcharge, as well as any additional funds otherwise allocated or donated to the wireless E-911 fund.

"Wireless E-911 PSAP costs" means all reasonable direct recurring and nonrecurring capital costs and operating expenses incurred by a public service answering point in designing, upgrading, leasing, purchasing, programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware, software and local exchange telephone service required to provide wireless E-911 service and direct personnel costs incurred in receiving and dispatching wireless E-911 calls.

"Wireless E-911 service" means the E-911 service required to be provided by CMRS providers pursuant to the FCC order.

"Wireless E-911 surcharge" means a monthly fee of seventy-five cents assessed upon each CMRS telephone number assigned by a CMRS provider.

§ 56-484.9. Wireless E-911 Service Board.

A. The Wireless E-911 Service Board is hereby created as a body politic and corporate and a political subdivision. The Board shall consist of seven members. Six members shall be appointed by the Governor as follows: one representing the Virginia chapter of the Association of Public Safety Communications Officials, one representing the Virginia chapter of the National Emergency Number Association, one who is the finance officer of a county or municipality, one who is employed by a telephone company providing E-911 service as described in subsection B of § 58.1-3813, and two representing CMRS providers authorized to do business in Virginia. The Comptroller of the Commonwealth shall also be a member of the Board and shall serve as Chairman of the Board.

B. Two of the initial appointments by the Governor shall be for one year, two shall be for two years, and two shall be for three years. Thereafter, all appointments by the Governor shall be for three years except appointments by the Governor to fill vacancies, which shall be for the remainder of the unexpired term. Vacancies shall be filled in the same manner as the original appointment. Each member may be appointed to no more than two successive full terms.

C. Members of the Board shall serve without compensation; however, members of the Board shall be reimbursed for expenses as provided in Chapter 2.1 (§ 2.1-20.2 et seq.) of Title 2.1.

D. The Board may contract for such services as may be necessary to carry out its responsibilities under this chapter. Payment for such services shall be as approved by the Board from funds received from CMRS providers as provided in this chapter. Any information furnished to the Board and designated as confidential by a CMRS provider shall be disclosed only to the Chairman and staff designated by the Chairman to receive such information. Such information may be provided to the Board in combination with other information in such manner that the Board will receive all necessary information without disclosure of confidential information designated by a CMRS provider.

§ 56-484.10. Funding.

A. A wireless E-911 surcharge shall be collected beginning July 1, 1998, by each CMRS provider from each of its customers whose billing address is within the Commonwealth and forwarded to the Board within thirty days.

B. Each CMRS provider shall reduce such collected amounts by three percent and retain such amounts to defray costs incurred in complying with this chapter. Each CMRS provider shall show the wireless E-911 surcharge as a separate item on bills to its customers. If a CMRS provider receives from a customer partial payment of a bill, the CMRS provider shall apply the payment against charges for wireless telephone service before applying any part of the payment to the wireless E-911 surcharge.

C. State and local taxes shall not apply to the wireless E-911 surcharge.

D. Not later than December 1, 2001, the Board shall advise the General Assembly (i) whether the wireless E-911 fund has been sufficient to make qualifying payments on a current basis and (ii) whether there is reason to reduce the amount of the wireless E-911 surcharge.

§ 56-484.11. Uses of wireless E-911 fund.

A. The Board shall provide full payment to PSAP operators of all wireless E-911 PSAP costs and to CMRS providers of all wireless E-911 CMRS costs as defined in this chapter. For that purpose (i) each PSAP operator shall submit to the Board each year on or before October 1 its estimate of wireless E-911 PSAP costs it expects to incur during its next fiscal year and (ii) each CMRS provider shall submit to the Board on or before December 31 of each year its estimate of wireless E-911 CMRS costs it expects to incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates. The Board shall review such estimates and advise each PSAP operator and CMRS provider on or before the following March 1 whether its estimate qualifies for payment hereunder and whether the wireless E-911 fund is expected to be sufficient for such payment during said fiscal year. Each PSAP and CMRS provider shall notify the Board promptly of any material change in its plans to provide wireless E-911 service.

B. The Board shall make such qualifying payments to each PSAP operator and CMRS provider in four equal payments at the beginning of each calendar quarter of such fiscal year. If the wireless E-911 fund is insufficient during any calendar quarter to make all such qualifying payments, the board shall prorate payments equally among all PSAP operators and CMRS providers during such calendar quarter. Unpaid amounts shall be carried forward for payment during the next calendar quarter. Such carry-forward process shall continue until all qualifying payments have been made.

C. During the period July 1 through September 30 of each year the Board shall determine whether qualifying payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or CMRS provider. Each PSAP operator or CMRS provider 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 qualifying payments during the then current fiscal year, on such schedule as the Board shall determine.

D. Any estimate of wireless E-911 PSAP costs submitted to the Board after October 1 and any estimate of wireless E-911 CMRS costs submitted to the Board after December 31 of any year shall be reviewed by the Board as described in subsection A to the extent practicable as determined by the Board; however, qualifying payments based on estimates submitted in accordance with the schedule set forth in subsection A shall have priority for payment.

E. The Board shall review estimates of wireless E-911 PSAP costs or wireless E-911 CMRS costs to be incurred prior to July 1, 1999, and determine whether such costs qualify for payment hereunder. The Board may make such qualifying payments to the extent the wireless E-911 fund is sufficient for such payments.

F. The wireless E-911 fund shall be subject to the provisions of Chapter 14.1 (§ 2.1-234.29 et seq.) of Title 2.1 relating to the Department of the State Internal Auditor.

2. That the provisions of this act shall expire on July 1, 2002.