

HOUSE CS FOR CS FOR SENATE BILL NO. 97(FIN) am H**IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - FIRST SESSION****BY THE HOUSE FINANCE COMMITTEE****Amended: 5/7/93****Offered: 4/26/93****Sponsor(s): SENATOR PEARCE****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to enhanced 911 emergency reporting systems; and providing for**
 2 **an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that**

5 (1) the elderly, the young, and victims of crime are often at risk, unable to
 6 assist themselves, and are frequently unable to explain directions to the location of an
 7 emergency situation;

8 (2) the basic 911 telephone emergency number is currently available in some
 9 communities in the state, but an enhanced 911 system is currently available to only a limited
 10 number of Alaskans;

11 (3) an enhanced 911 telephone emergency system provides

12 (A) expansion of the benefits of the basic 911 emergency telephone
 13 number;

14 (B) faster response time, which minimizes the loss of life and property;

- 1 (C) automatic routing to the appropriate emergency response unit;
2 (D) immediate visual display of the location and telephone number of
3 the caller; and
4 (E) curtailment of abuses of the emergency system by documenting
5 callers;

6 (4) more communities in the state could make efficient use of the enhanced
7 911 telephone emergency system if the communities had adequate funding available.

8 (b) It is the purpose of this legislation to

9 (1) establish broad protections for acquiring, establishing, operating, and
10 maintaining enhanced 911 systems;

11 (2) establish methods for the payment of costs associated with those activities;

12 and

13 (3) enable the development, installation, and operation of enhanced 911
14 emergency reporting systems to be operated under local governmental management and
15 control.

16 * Sec. 2. AS 09.65.070(d) is amended to read:

17 (d) No action for damages may be brought against a municipality or any of its
18 agents, officers, or employees if the claim

19 (1) is based on a failure of the municipality, or its agents, officers, or
20 employees, when the municipality is neither owner nor lessee of the property involved,

21 (A) to inspect property for a violation of any statute, regulation
22 or ordinance, or a hazard to health or safety;

23 (B) to discover a violation of any statute, regulation, or
24 ordinance, or a hazard to health or safety if an inspection of property is made;
25 or

26 (C) to abate a violation of any statute, regulation or ordinance,
27 or a hazard to health or safety discovered on property inspected;

28 (2) is based upon the exercise or performance or the failure to exercise
29 or perform a discretionary function or duty by a municipality or its agents, officers,
30 or employees, whether or not the discretion involved is abused;

31 (3) is based upon the grant, issuance, refusal, suspension, delay or

1 denial of a license, permit, appeal, approval, exception, variance, or other entitlement,
2 or a rezoning;

3 (4) is based on the exercise or performance during the course of
4 gratuitous extension of municipal services on an extraterritorial basis; or

5 (5) is based upon the exercise or performance of a duty or function
6 upon the request of, or by the terms of an agreement or contract with, the state to meet
7 emergency public safety requirements;

8 (6) is based on the exercise or performance of a duty in connection
9 with an enhanced 911 emergency system and is not based on an intentional act
10 of misconduct or on an act of gross negligence.

11 * Sec. 3. AS 29.10.200 is amended by adding a new paragraph to read:

12 (51) AS 29.35.131 (enhanced 911 system).

13 * Sec. 4. AS 29.35 is amended by adding new sections to read:

14 Sec. 29.35.131. 911 SURCHARGE. (a) A municipality may, by resolution
15 or ordinance, elect to provide an enhanced 911 system at public safety answering
16 points, may purchase or lease the enhanced 911 equipment or service required to
17 establish or maintain an enhanced 911 system at public safety answering points from
18 a local exchange telephone company or other qualified vendor, and may impose a 911
19 surcharge, in an amount to be determined by the municipality, on all local exchange
20 access lines in the area to be served by the enhanced 911 system. For a municipality
21 with a population of 100,000 or more, the surcharge may not exceed 50 cents per
22 month per local exchange access line. For a municipality with fewer than 100,000
23 people, the surcharge may not exceed 75 cents per month per local exchange access
24 line. The area served by a system may be all of a city, all of a unified municipality,
25 or all or part of the area within a borough and may include the extraterritorial
26 jurisdiction of a municipality in accordance with AS 29.35.020. The governing body
27 of a municipality shall review the 911 surcharge annually to determine whether the
28 current level of the surcharge is adequate, excessive, or insufficient to meet anticipated
29 enhanced 911 system needs. The municipality may only use the surcharge for the
30 enhanced 911 system.

31 (b) A local exchange telephone company providing service in a municipality

1 that has imposed a 911 surcharge shall bill and collect the surcharge from customers
2 in the designated 911 service area. A local exchange telephone customer may not be
3 subject to more than one 911 surcharge on a local exchange access line. A customer
4 that has more than 100 local exchange access lines from a local exchange telephone
5 company in the municipality is liable for the 911 surcharge only on 100 local exchange
6 access lines.

7 (c) A local exchange telephone company shall include the 911 surcharge,
8 stated separately and included in the total amount owed, in the bills delivered to its
9 customers. The Alaska Public Utilities Commission may not consider the 911
10 surcharge as revenue of the local exchange telephone company and has no jurisdiction
11 over an enhanced 911 system. A local exchange service customer is liable for
12 payment of the 911 surcharge in the amounts billed by the local exchange telephone
13 company until the amounts have been paid to the telephone company.

14 (d) A local exchange telephone company that has collected the 911 surcharge
15 shall remit the amounts collected to the municipality no later than 60 days after the
16 end of the month in which the amount was collected. From each remittance made in
17 a timely manner under this subsection, the local exchange telephone company is
18 entitled to deduct and retain the greater of one percent of the collected amount or \$150
19 as the cost of administration for collecting the 911 surcharge.

20 (e) A local exchange telephone company is not obligated to take legal action
21 to enforce collection of the 911 surcharge. However, if a local exchange telephone
22 company is attempting to collect an unpaid debt from a local exchange service
23 customer, the telephone company shall also attempt to collect any unpaid 911
24 surcharge that the customer owes. If a customer pays a portion of a bill that includes
25 a 911 surcharge, the amount paid shall be prorated between the telephone company and
26 the 911 surcharge. The company shall annually provide the municipality with a list
27 of the amounts due for the nonpayment of 911 emergency surcharges, together with
28 the names and addresses of those customers who carry a balance that can be
29 determined by the company to be for the nonpayment of the 911 emergency
30 surcharges. The local exchange telephone company is not liable for uncollected
31 amounts.

1 (f) The municipality may, at its own expense, require an annual audit of a
2 local exchange telephone company's books and records concerning the collection and
3 remittance of the 911 surcharge.

4 (g) A village, as defined in AS 09.65.070(e), or a public corporation
5 established by a municipality has the powers granted to a municipality under this
6 section.

7 (h) This section applies to home rule and general law municipalities.

8 **Sec. 29.35.133. IMMUNITY.** (a) The establishment, funding, use, operation,
9 or maintenance of enhanced 911 systems and all activities associated with those actions
10 are specifically found to be within the ambit of AS 09.50.250(1) and
11 AS 09.65.070(d)(6). Except for intentional acts of misconduct or gross negligence, a
12 service supplier, local exchange telephone company, or mobile telephone company,
13 including a cellular service company, and their employees and agents, are also immune
14 from tort liability that might otherwise be incurred in the course of installing, training,
15 maintaining, or providing enhanced 911 systems or transmitting or receiving calls on
16 the system.

17 (b) An individual, telephone company, or employee of a telephone company
18 who operates or maintains an emergency 911 service is not liable for civil damages
19 in a tort action as a result of an act, omission, failure of service, or incorrect
20 information done or given in good faith.

21 (c) In this section, "service supplier" means a person that provides or offers
22 to provide telecommunications equipment or services necessary for the establishment,
23 maintenance, or operation of an enhanced 911 system.

24 **Sec. 29.35.135. WAIVER OF PRIVACY BY LOCAL EXCHANGE**
25 **TELEPHONE COMPANY SUBSCRIBERS.** Local exchange telephone company
26 subscribers waive the privacy afforded by unlisted or unpublished telephone numbers
27 to the extent that the name and address associated with the telephone number may be
28 furnished to the enhanced 911 system for call routing or for automatic retrieval of
29 location information in response to a call initiated to the system.

30 **Sec. 29.35.137. DEFINITIONS.** In AS 29.35.131 - 29.35.137,

31 (1) "911 service area" or "enhanced 911 service area" means the area

1 within a municipality's jurisdiction that has been designated to receive enhanced 911
2 service; the designation of an area to receive an enhanced 911 system under
3 AS 42.30.420(a) does not designate the area as a "service area" for purposes of art. X,
4 sec. 5, Constitution of the State of Alaska;

5 (2) "enhanced 911 equipment" means the equipment dedicated to the
6 operation of, or use in, the establishment, operation, or maintenance of an enhanced
7 911 system, including customer premises equipment, automatic number identification
8 or automatic location identification controllers and display units, printers, cathode ray
9 tubes, recorders, software, and other essential communication equipment required by
10 the system;

11 (3) "enhanced 911 system" or "system" means a telephone system
12 consisting of network, database, and enhanced 911 equipment that uses the single three
13 digit number, 911, for reporting a police, fire, medical, or other emergency situation,
14 and that enables the users of a public telephone system to reach a public safety
15 answering point to report emergencies by dialing 911; an enhanced 911 system
16 includes the personnel required to acquire, install, operate, and maintain the system;

17 (4) "local exchange access line" means a telephone line that connects
18 a local exchange service customer to the local exchange telephone company switching
19 office and has the capability of reaching local public safety agencies, but does not
20 include a line used by a carrier to provide interexchange services;

21 (5) "local exchange service" means the transmission of two-way
22 interactive switched voice communications furnished by a local exchange telephone
23 company within a local exchange area, including access to enhanced 911 systems; in
24 this paragraph, "local exchange area" means a geographic area encompassing one or
25 more political subdivisions as described in maps, tariffs, or rate schedules filed with
26 the Alaska Public Utilities Commission, where local exchange rates apply;

27 (6) "local exchange telephone company" means a telephone utility
28 certificated by the Alaska Public Utilities Commission to provide local exchange
29 service;

30 (7) "municipality" has the meaning given in AS 29.71.800 and includes
31 a public corporation established by a municipality and a village as that term is defined

1 in AS 09.65.070(e);

2 (8) "public safety answering point" means a 24-hour local jurisdiction
3 communications facility that receives 911 service calls and directly dispatches
4 emergency response services or that relays calls to the appropriate public or private
5 safety agency.

6 * Sec. 5. AS 29.35.131(a) is repealed and reenacted to read:

7 (a) A municipality may, by resolution or ordinance, elect to provide an
8 enhanced 911 system at public safety answering points and may purchase or lease the
9 enhanced 911 equipment or service required to establish or maintain an enhanced 911
10 system at public safety answering points from a local exchange telephone company or
11 other qualified vendor. The area served by a system may be all of a city, all of a
12 unified municipality, or all or part of the area within a borough and may include the
13 extraterritorial jurisdiction of a municipality in accordance with AS 29.35.020.

14 * Sec. 6. AS 29.35.131(b), 29.35.131(c), 29.35.131(d), 29.35.131(e), 29.35.131(f), and
15 29.35.137(4) are repealed July 1, 1996.

16 * Sec. 7. Except as provided in sec. 8 of this Act, this Act takes effect immediately under
17 AS 01.10.070(c).

18 * Sec. 8. Sections 5 and 6 of this Act take effect July 1, 1996.