

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 25, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Bob Nugent, Revisor of States
Betty Bomar, Secretary

Conferees appearing before the committee:
Cindy Lash, Legislative Post Audit Division
Judy Moler, Kansas Association of Counties

Others attending: See attached list

Cindy Lash, Division Legislative Post Audit, continued the briefing on the "*Performance Audit Report - Reviewing the 911 Emergency Phone Systems in Kansas, Part II: Federal Mandates and Organizational Structure*". (a copy is on file in the Legislative Research Department or at <http://skyways.lib.ks.us/ksleg/PAUD/homepage.html>). Ms. Lash, in answer to a question posed by Senator Barone as to whether counties or cities could issue bonds to provide revenue for the 911 dispatch centers, stated general obligation bonds can be used with the 911 tax utilized to pay off the bonds. Loans are also made, generally by equipment manufactures, for the purpose of purchasing and updating equipment.

Ms. Lash stated consolidation of 911 services is politically difficult as consolidation requires agreement between all affected agencies and governing bodies about such issues as funding, staffing and administration, with governing bodies and agency heads wanting to keep local control.

As a result of the Texas audit identifying a number of poor business practices by 911 answering points and the finding of waste and abuse of program resources, the Audit investigated what was occurring in Kansas. The Audit found that business practices in Kansas are generally sound; however, there is an inconsistency as to how E-911 funds spent. Applying the statutory language limiting 911 tax moneys to specific expenditures can be difficult, especially expenditures for equipment and capital improvements. It is not always clear when expenditures are for the emergency telephone system. As a result of different interpretations, the Attorney General has issued two informal opinions which opine that the purchase of equipment used to receive and record emergency calls or to relay or dispatch emergency information to response units is an allowable expenditure; but that items such as office furniture and equipment which do not interact with the system as a whole and do not directly contribute to the common purpose of the 911 system may not be purchased with 911 tax moneys.

The Audit recommends clarification of legislative intent on how 911 tax moneys can be spent; and the creation an advisory committee or technical advisor to assist answering points in receiving information and technical support, and to assist local government officials with issues pertaining to consolidating operations.

Lynne Holt, Legislative Research Department, briefed the Committee on three issues that surfaced at the federal level after the Post Audit reports were completed: cost recovery, technology deployment deadlines, and liability protection for wireless companies.

The FCC issued regulations requiring wireless phone companies, under certain conditions, to provide Enhanced 911 services for wireless phone users. The FCC regulations set up a two phase process.

CONTINUATION SHEET

In Phase I, a wireless phone company must, upon request, be able to transmit the phone number of the wireless phone and the location of the cell tower receiving the signal to a 911 public safety answering point. Phase II requires the phone company to transmit the following information to an answering point by October 1, 2001: the location of the caller by longitude and latitude, within 400 feet of the caller's location for about 67% of calls. Implementation of both phases was conditioned by: request by the 911 answering point, capability of the answering point to receive the information transmitted to it, and availability of a cost-recovery system to reimburse wireless phone companies for the costs they will incur in providing E-911 services. The last precondition was removed in an order issued by the FCC on December 8, 1999. "*FCC Act to Remove Barriers Impeding Wireless 911 Service*". (Attachment 1) The reasons for removing the cost recovery mechanism as a precondition for implementation of E-911 services are: the FCC did not consider it necessary to mandate a cost recovery mechanism for carriers that are not subject to rate regulation, and the requirement placed a delay in implementation of Phase I.

In August 1999, an implementation report was submitted to the FCC by various public safety associations and the Cellular Telecommunications Industry Association which concluded that cost recovery issues impeded implementation of Phase I in some cases, and that the pace of legislative progress can often be correlated to the differing interests of answering points and wireless carriers regarding funding legislation and mechanisms. The Report also found that 33 states have imposed wireless 911 surcharges, but less than 3 percent of wireless subscribers nationally can access Phase I service. The implementation report noted that there are 284 answering points in 15 states that have implemented E-911 services in Phase I. However, there is a national total of 10,000 answering points, so only 2.84 percent of all answering points are implementing Phase I; and implementation of Phase II has not even begun. Ms. Holt stated that even though the FCC removed the requirement of a cost recovery mechanism for carriers, it retained the requirement of a cost recovery mechanism for answering point, as the FCC recognized that answering points need adequate funding to finance upgrades for hardware and software capabilities to receive and use the location information transmitted to them in Phases I and II.

The FCC recently took action regarding the methods of providing specific data about a caller's location, as required in Phase II. "*FCC Acts to Promote Competition and Public Safety in Enhanced Wireless 911 Services*" (Attachment 2) extended the deadline for 100 percent deployment of triangulation to 1½ years instead of 6 months. The extension will accommodate negotiation of contracts associated with installation of new equipment at transmission towers or other sites, provide time for review and approval by local authorities, allow for the installation of the equipment, and provide time for coordination between the wireless carrier's system and testing before the system is turned on. The decision provides more scheduling flexibility for wireless carriers to implement Phase II.

Ms. Holt stated that until recently there was no liability protection provided at the federal level to wireless carriers. Wireless carriers voiced their concern that several factors outside their control could prevent them from processing an E-911 call, such as an inability to site antennae, radio frequency interference, and terms of a carriers licence that required them to provide coverage throughout the service area. Telephone companies have liability protection under their tariffs. In October 1999, a federal law was enacted to provide wireless carriers the same liability protection as enjoyed by telephone companies in each state. In light of the recently enacted federal legislation, the FCC took no action on this issue.

Judy Moler, Kansas Association of Counties, requested a Resolution which would create a Task Force comprised of members of city and local governments, members of the wireless and wired industry, members of the legislature, and appropriate state agencies. The task force charged with examining the mechanism for cost recovery for money expended by public safety answering points; examining the establishment of a state oversight board to address future technological, coordination and regulatory issues dealing with wireless emergency telephone service; examining a mechanism for administering a wireless emergency telephone service with the focus being on a decentralized v. centralized basis; an examination of current statutory uses for which taxes collected for emergency services can be used; and submit its report and recommendations to the 2001 Legislature.

Senator Donovan moved, seconded by Senator Ranson, that a Resolution be introduced creating a Task Force comprised of members of city and local governments, members of the wireless and wired industry, members of the legislature and appropriate state agencies to examine the mechanism for cost recovery for money expended by public safety answering points; the establishment of a state oversight board to address future technological, coordination and regulator

CONTINUATION SHEET

issues dealing with wireless emergency telephone service; a mechanism for administering a wireless emergency telephone service, with the focus being on a decentralized v. centralized basis; current statutory uses for which taxes collected for emergency services can be used; and to submit its report and recommendations to the 2001 Legislature. The voice vote was in favor of the motion.

Upon motion by Senator Gooch, seconded by Senator Donovan, the Minutes of the January 24, 2000 were unanimously approved.

The meeting was adjourned at 9:00 a.m.

The next meeting is scheduled for January 26, 2000.