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# HANDBOOK

## Ohio County Commissioners

*Published by: County Commissioners Association of Ohio*

209 East State Street • Columbus, Ohio 43215-4309

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## CHAPTER 105

# WIRELINE (Land Line) and WIRELESS (Cell Phone) 9-1-1 SYSTEMS

Last Revision  
December, 2009

### 105.01 OVERVIEW OF THE 9-1-1 SYSTEM

9-1-1 service generally consists of two components: a local government component and a telecommunications component. The local government “answers” 9-1-1 emergency calls at a PSAP (Public Safety Answering Point). The PSAP may be operated by a county sheriff, local law enforcement agency, fire/EMS department, the county, or a private entity and may be staffed with either law enforcement, fire/EMS or civilian personnel. The actual “dispatch” of a 9-1-1 call may be done by the PSAP or the call may be transferred to the appropriate emergency responder for dispatch. The telecommunications company routes the 9-1-1 call to the appropriate PSAP.

HB 491 (116<sup>th</sup> General Assembly) passed in 1985, provided for the establishment of enhanced emergency 9-1-1 wireline service across the state. An enhanced 9-1-1 wireline system provides the PSAP with the automatic display of the telephone number of the phone from which the 9-1-1 call is made and its corresponding subscriber’s name and physical address and other information that is important for locating the site of the emergency. Enhanced 9-1-1 wireline systems are implemented county-by-county. The PUCO reviews and approves each county’s plan for establishing enhanced 9-1-1 wireline service.

For cell phone calls the Federal Communications Commission (FCC), requires wireless service providers to install the necessary features to enable a PSAP to “locate” the cell phone in a two step process. The first step is to provide the cell phone number identification and physical location of the tower that is processing the 9-1-1 call (“Phase I” automatic number identification [ANI] capability). The second step is to be able to identify the cell phone’s approximate location to within 300 meters of its actual position for at least 95% of calls (“Phase II” automatic location identification [ALI] capability) for a

9-1-1 call originating from a cell phone. HB 361 (125<sup>th</sup> General Assembly), signed into law in 2005, provided a way to subsidize the counties' operating costs for an enhanced wireless 9-1-1 system. Wireless customers initially paid a monthly 32 cent surcharge, which was reduced to 28 cents beginning January 2009 (SB 129 of the 127<sup>th</sup> General Assembly), per cell phone to fund enhanced wireless 9-1-1 capabilities. As with 9-1-1 service for traditional wireline phones, each county is responsible for the implementation of enhanced wireless 9-1-1. There are several local financing options which may be used individually or in any combination to provide funding for a 9-1-1 system. The final plan can include a formula allocating the local costs among political subdivisions in the county that are served by PSAP's and or a special assessment on each parcel of land in the county that is improved or in the process of being improved. A real property tax levy or either a ¼ percent or ½ percent sales and use tax may also be used to fund a 9-1-1 system.

All counties are currently operating a wireline 9-1-1 system. All counties have filed amended final plans for the purpose of implementing wireless location technology, and consequently are receiving funds disbursed from the Wireless 9-1-1 Government Assistance Fund, and have been approved for implementing enhanced wireless 9-1-1 systems based on that plan. Fifteen counties are working toward implementation of their plan, nine counties have implemented phase 1 of their plan, and sixty-four counties are fully operational phase 2 systems that utilize both caller ID and location technology.

The primary law dealing with 9-1-1 systems is contained in ORC Sections 4931.40 - 4931.70. Following is a history of the legislation that has been enacted regarding 9-1-1 systems:

- HB 491 (116<sup>th</sup> General Assembly - 1985) – the original legislation providing for 9-1-1 systems
- HB 418 (119<sup>th</sup> General Assembly - 1991) – special assessment funding option
- SB 131 (119<sup>th</sup> General Assembly - 1991) – sales and use tax funding option
- HB 344 (120<sup>th</sup> General Assembly - 1994) – first telephone line access funding option
- HB 152 (123<sup>th</sup> General Assembly - 2000) – second telephone line access funding option
- HB 361 (125<sup>th</sup> General Assembly - 2005) – state funding for wireless enhanced 9-1-1
- SB 9 (126<sup>th</sup> General Assembly - 2006) – modified final plan amendment procedures
- SB 129 (127<sup>th</sup> General Assembly – 2008) – extended surcharge for wireless funding

The CCAO has prepared a series of County Advisory Bulletins on the subject of 9-1-1 systems:

1992-01 - H.B. 491 New Funding Options for 9-1-1 Phone Systems

1994-02 - H.B. 344 9-1-1 Telephone Surcharge

2000-06 - H.B. 152 Additional 9-1-1 Telephone Surcharge

2005-04 - Wireless Enhanced 9-1-1 Service

A note about emerging communication technologies: The current 9-1-1 system was developed in the 1970s and is designed for voice media only. However, the public today commonly uses significantly advanced telecommunications technology and, as a result, the public's expectations now far exceed the current 9-1-1 system's capabilities. While the current 9-1-1 system is in the process of upgrading to accept internet phone technologies (Voice over Internet Protocol - [VoIP]) the system is incapable of accepting text data, images, video, and telematics such as an "On-Star" service.

## **105.02 ESTABLISHING A COUNTYWIDE 9-1-1 SYSTEM**

ORC Section 4931.41(B) defines a countywide 9-1-1 system as being "a basic or enhanced 9-1-1 system, or a combination of the two, and shall be for the purpose of providing both wireline 9-1-1 and wireless 9-1-1."

### **105.021 9-1-1 PLANNING COMMITTEE (ORC 4931.42(A))**

The board of county commissioners or the legislative authority of any municipal corporation that contains at least 30 percent of the total county population may adopt a resolution to convene a 9-1-1 planning committee.

The planning committee is composed of the following members:

1. President of the county commissioners who serves as the chair.
2. Chief executive of the most populous municipality, and
3. Either the chief executive of the second largest municipality or a township trustee from the largest township if the township has more population than the second largest municipality.
4. If the county is over 175,000 in population, there are two additional members as follows:
  - a. A township trustee selected pursuant to resolutions approved by a majority of the townships in the county, and
  - b. The chief executive of another municipality selected pursuant to resolutions approved by a majority of all municipalities in the county.

The first meeting of the 9-1-1 planning committee must be within 30 days after the adoption of a resolution by the county or municipality to establish the planning committee. (ORC 4931.42(B))

**105.022 APPOINTMENT OF TECHNICAL ADVISORY COMMITTEE (ORC 4931.42(C))**

The 9-1-1 planning committee must appoint a technical advisory committee composed of the following:

1. Fire chief
2. Police chief
3. County sheriff
4. Representative of state highway patrol
5. One representative from each telephone company that provides wireline or wireless service within the county
6. Director of emergency management
7. A township trustee appointed by a majority of townships in the county
8. Others at the discretion of the planning committee

**105.023 DETERMINATION IF PHONE COMPANY CAN PROVIDE SERVICE (ORC 4931.41(A)(2))**

One of the first things that needs to be determined is if the telephone company or companies are capable of reasonably meeting the technical and economic requirements of providing the telephone network portion of the system. Generally, the law requires the 9-1-1 systems to be countywide; however, territory in the county may be excluded if the phone company cannot provide the service. If there is a disagreement over whether the company can provide the telephone network portion of the 9-1-1 system, the disagreement is referred to PUCO for a decision before the final plan is adopted.

**105.024 REQUIRED CONTENTS OF 9-1-1 PLAN (ORC 4931.43(B))**

The initial 9-1-1 implementation proposal and the final 9-1-1 plan must contain the following elements:

1. A listing of the telephone companies in the county that will participate.
2. Location and number of PSAP's.

3. Description of how the PSAP's will connect with the telephone network.
4. Descriptions of the geographic area of the county where each PSAP will receive calls.
5. Whether the system will be basic, enhanced or a mixture.
6. A list of subdivisions that will be served by each PSAP.
7. How the PSAP will respond to calls through the following options:
  - a. Direct dispatch
  - b. Relay of message
  - c. Call transfer
8. The name of the subdivision that will establish, equip, furnish, operate and maintain each PSAP.
9. A cost projection of the initial cost of establishing of the PSAP and of the cost of operating each PSAP for five years.
10. Whether the local costs are to be paid for by the use of a special assessment or will be allocated among the subdivisions served by the answering point and, if any such cost is to be allocated, the allocation formula must be included in the plan. (Note: the law does not require that the use of a sales tax or real property tax be addressed in the "local costs" section of the plan. It is recommended, however, that all sources of funding supporting the local governments' obligations pursuant to the allocation formula be included in the plan and if a sales tax or real property tax is to be one of the funding sources there should be provisions addressing the initial enactment of the tax and how its continuation, renewal, or failure will impact the allocation of the local costs.)
11. A description of how an emergency service provider will respond to a misdirected call.

**105.025 PUBLIC MEETING ON 9-1-1 PLAN IMPLEMENTATION PROPOSAL (ORC 4931.43(A))**

After the 9-1-1 plan is prepared, a public meeting must be held by the planning committee to receive comments from public officials. Notice of the meeting and a copy of the implementation proposal must be sent, at least 30 but not more than 60 days before the hearing, to the following by certified mail:

1. County commissioners

2. Legislative authority of each municipality
3. Each board of township trustees

In addition, the proposal must be sent to any board of trustees, directors, or park commissioners of any subdivision that will be served by a PSAP under the plan. This would include the following entities that may provide emergency service, whether with its own employees or by a contract:

1. Township fire district
2. Joint fire district
3. Township police district
4. Joint ambulance district
5. State colleges and universities
6. Port authority
7. Park district

#### **105.026 PLANNING COMMITTEE ADOPTION PROCESS (ORC 4931.43(C))**

After the public meeting, the planning committee may modify the proposal and may then vote to adopt a final plan. This must be completed within nine months after the resolution is adopted establishing the planning committee. In the event of a disagreement concerning the capability of the telephone company to provide the telephone network portion of the system, the PUCO may extend this deadline by an additional three months. This is the only basis for an extension. If this nine or 12 month deadline is not met, the 9-1-1 planning committee goes out of existence, although a new planning committee may be established.

Immediately upon adoption of the final plan the planning committee shall send a copy of the plan by certified mail to the following:

1. County commissioners
2. Legislative authority of each municipal corporation
3. Each board of township trustees

The plan must also be sent to each board of trustees, directors, or park commissioners of other political subdivisions to be served by the PSAP's under the final plan.

### **105.027 PLAN APPROVAL BY POLITICAL SUBDIVISIONS (ORC 4931.44)**

Within 60 days after the receipt of the final plan, the county commissioners, each municipal legislative authority and each board of township trustees must act by resolution to either approve or disapprove the final plan. Notice of this action must be given to the county commissioners. If such notification is not forthcoming the plan is deemed disapproved by the subdivision.

In order for the final plan to become effective, the following approvals are required:

1. The board of county commissioners.
2. The legislative authority of any municipal corporation that contains at least 30 percent of the total county population.
3. Legislative authorities of municipal corporations and townships that contain at least 60 percent of the total county population. If, however, one municipal corporation itself contains 60 percent of the total county population, the plan must then be approved by townships and municipal corporations that contain at least 75 percent of the total county population.

After a final plan becomes effective, the telephone companies must install the telephone network portion of the system within three years (ORC 4931.46(A)).

### **105.03 AMENDMENTS TO A 9-1-1 FINAL PLAN (ORC 4931.45)**

An amendment to a final plan for the following purposes may be made by an addendum approved by a majority of the 9-1-1 planning committee. The board of county commissioners shall call a meeting of the 9-1-1 planning committee for the purpose of considering an addendum pursuant to this section.

1. Expanding the territory included in the countywide 9-1-1 system;
2. Adjusting the territory served by a public safety answering point;
3. Providing for wireless enhanced 9-1-1;
4. Making any other necessary adjustments to the plan.

A final plan shall be amended in the manner provided for adopting a final plan under ORC Sections 4931.42 to 4931.44, including convening a 9-1-1 planning committee, developing a proposed amended plan prior to adopting an amended final plan, and submitting the plan to the political subdivisions for approval when:

1. Upgrading any part or all of a system from basic to enhanced wireline 9-1-1;

2. Represcribing funding of PSAPs through either the use of a funding allocation plan or an assessment or a combination of both; or,
3. Providing that the state highway patrol or one or more public safety answering points of another 9-1-1 system function as a public safety answering point or points for the provision of wireline or wireless 9-1-1 for all or part of the territory of the system established under the final plan, as contemplated under ORC Section 4931.41 (J)

To amend a final plan for the purpose of adding a telephone company as a participant in a countywide 9-1-1 system after the implementation of a wireline 9-1-1 or wireless enhanced 9-1-1 plan, the company that wishes to be added as a participant in a 9-1-1 system shall file a written letter of that intent with the board of county commissioners. The final plan is deemed amended upon the filing of that letter. The entity that files the letter shall also send written notice of that filing to all subdivisions and telephone companies participating in the system. (ORC 4931.45 (A)(6))

Changes relating to charges imposed by a special assessment pursuant to ORC Section 4931.51 may be made by the board of county commissioners whenever the board considers it advisable and are not considered to be a plan amendment. (See Section 105.054 below.)

#### **105.04 RESPONSIBILITY FOR COSTS ASSOCIATED WITH A 9-1-1 SYSTEM**

The law provides for a sharing of costs for a 9-1-1 system between the telephone company, phone users, and local political subdivisions as follows:

1. TELEPHONE COMPANY COSTS - Telephone companies are responsible for initial funding for the non-recurring telephone network costs to support a 9-1-1 system. (ORC 4931.47 (C)) Telephone companies, in most cases, will then receive a public utility excise tax credit for the costs associated with the wireline system. This credit is not available to the telephone company for its costs associated with upgrading its network to allow wireless calls to access a 9-1-1 PSAP. (See Section 105.08 below);
2. TELEPHONE USERS - Telephone customers pay for the recurring costs associated with the telephone network portion of the wireline 9-1-1 system. These charges are included in the customer's phone bill. The amount of the charge is determined by the PUCO under normal rate making procedures and is paid by all residential and business customers on the basis of the number of access lines. These charges are reviewed periodically by PUCO. (ORC 4931.47 (B)); and,
3. LOCAL POLITICAL SUBDIVISION COSTS - Local political subdivisions pay for the recurring and non-recurring costs associated with the 9-1-1 system's PSAP's. The amount of the costs to each subdivision is determined and allocated in the final plan and can be financed in a variety of ways. Upon a plan amendment



providing for wireless enhanced 9-1-1 service the local governments are eligible to receive funding from the Wireless 9-1-1 Government Assistance Fund for their costs associated with providing wireless enhanced 9-1-1 access. The local political subdivisions are also responsible for the telephone company costs associated with upgrading its network to allow wireless calls to access a 9-1-1 PSAP. These costs are recovered through tariff charges approved by the PUCO and are payable from wireless 9-1-1 funding received from the state.

### **105.05 LOCAL FINANCING OF A 9-1-1 SYSTEM**

There are five options available to counties for financing 9-1-1 system costs that are a local responsibility:

1. Allocation formula included in the final plan,
2. Real property tax levy,
3. Sales and use tax, and
4. Special assessment.
5. Wireless 9-1-1 Government Assistance Funds (See Section 105.073 below)

A sixth option to impose a telephone access line charge is not currently available. This option was made available on two different occasions, each with a different purpose, to only a few counties that at the time of their enactment were having difficulty in obtaining a method to finance their 9-1-1 plan (See Section 105.06 et. seq. below).

#### **105.051 ALLOCATION FORMULA IN THE FINAL PLAN (ORC 4931.43(B)(5))**

The final plan may include an allocation of all the local costs associated with establishing, equipping, furnishing, operating, and maintaining each PSAP to the political subdivisions served by each PSAP. If the costs are allocated the final plan must include an allocation formula by which the costs are computed and assigned to each political subdivision for payment. Political subdivisions may use general fund money.

#### **105.052 REAL PROPERTY TAX LEVY (ORC 5705.19(BB))**

Political subdivisions, including counties, may seek voter approval of a property tax levy to fund the establishment and operation of a 9-1-1 system. This levy can be for any number of years not exceeding five.

#### **105.053 9-1-1 SALES AND USE TAX (ORC 5739.026 (A)(6))**

Counties may enact a permissive sales and use tax at the rate of either 1/4 percent or 1/2 percent to provide revenue for the implementation and operation of a 9-1-1 system in the

county.” If the commissioners levy the sales and use tax exclusively for 9-1-1 or for a combination of purposes under ORC Section 5739.026 (A), then the question of levying the tax must be submitted to the voters for approval. Note: in general counties have the authority to levy a permissive sales and use tax at a rate not to exceed 1 ½%, and they may enact the tax in ¼% increments. The first 1% authority is derived from ORC Sections 5739.021 and 5741.021 and is to provide additional revenues for the general fund or to provide additional revenues for administrative and criminal justice services. The additional ½% authority is derived from ORC Sections 5739.026 and 5741.023, and may be levied for general fund or for one or more specific purposes including 9-1-1 systems (See Chapter 16 of this Handbook for more information.)

The law authorizes two separate and distinct options for enacting the sales taxes for 9-1-1 system funding:

1. **SINGLE PURPOSE 9-1-1 SALES AND USE TAX** - If a county chooses to enact the tax solely for the purpose of a 9-1-1 system the tax may not be levied for a period of more than five years. In addition, at the end of the five year period, any balance in the special fund in the county treasury must remain in the fund and be used exclusively for the 9-1-1 system until all monies are expended for that purpose. The law also prohibits the commissioners from petitioning the court of common pleas to transfer any remaining money to another fund. A sales and use tax exclusively levied for 9-1-1 purposes may be levied in ¼ or ½ percent increments, as long as it does not exceed five years in duration.
2. **MULTIPLE PURPOSE 9-1-1 SALES AND USE TAX** – If a county wishes to enact a sales and use tax for 9-1-1 purposes for longer than five years, it must be levied along with one or more of options (1) through (5) of the 10 authorized purposes as specified in ORC Section 5739.026 (A)(1)-(10). The commissioners must establish the method that will be used to determine the dollar amount or percentage of total tax revenues received that will be distributed for each of the purposes. In developing this methodology, counties must specify the method that will be used each year, but the amount or percentage need not be the same each year. For example, a county that enacts the tax for 9-1-1 and for county general fund purposes could provide that 100 percent would be used for 9-1-1 during the first two years the tax is in effect, and thereafter would be allocated 60 percent for 9-1-1 and 40 percent for county general fund.

#### **105.054 SPECIAL ASSESSMENT (ORC 4931.51)**

A 9-1-1 plan must include a specific provision for the use of a special assessment in order for the county commissioners to legally enact the charges. The local costs of funding the PSAPs may be addressed through a special assessment or the use of a combination of a special assessment and an allocation formula among benefiting subdivisions.

County commissioners are authorized to fix and impose on each lot or parcel of real property in the county, that is improved or in the process of being improved, a reasonable

charge to be paid by owners of the property for the local costs of providing 9-1-1 service. The amount of the charge must be equal for all lots or parcels. The charge may be imposed on each lot or parcel that is owned by a person, municipality, township, or other political subdivision. This special assessment (per parcel charge) may be used to pay for any or all of the following purposes:

1. The costs of establishing, equipping, and furnishing one or more PSAP's under an approved 9-1-1 final plan.
2. The costs of operating and maintaining one or more PSAP's under an approved 9-1-1 final plan.
3. The expense of administering and enforcing the special assessment.

#### **105.0541 ENACTMENT OPTIONS (ORC 4931.51 (D))**

The special assessment is enacted pursuant to a resolution of the county commissioners. Commissioners have two options for the enactment of the special assessment:

1. RESOLUTION SUBJECT TO REFERENDUM--County commissioners may enact the resolution subject to a referendum during a 30 day period following the adoption of the resolution. If a referendum petition is then submitted the special assessment may not go into effect until the issue is approved by the electors at the next primary or general election.
2. DIRECT SUBMISSION TO THE ELECTORS--County commissioners may submit the question of imposing the special assessment directly to the voters at the next general or primary election. The resolution must be submitted to the board of elections at least 75 days prior to the general or primary election. Counties wishing to submit the question to the electors should be aware that a problem with the law may make it impractical to use this method. (See Section 105.0543 below)

#### **105.0542 ENACTMENT PROCEDURE (ORC 4931.51 (C))**

The resolution must be adopted at a public meeting held in accordance with the Sunshine Law. Before adopting the resolution, county commissioners must hold two public hearings on the proposal. Before the first hearing is held, the county must publish a notice of the public hearings in a newspaper of general circulation in the county once a week for two consecutive weeks. This notice must include a listing of the amount of the proposed special assessment and the date, time, and location of each public hearing.

The law also includes a requirement that the county commissioners must adopt the resolution within 60 days after the board has received the final plan initiating the establishment of a 9-1-1 system or plan amendment to a final plan that has been submitted to them by the 9-1-1 planning committee.

### **105.0543 CONFLICT BETWEEN SEQUENCE OF FINAL PLAN APPROVAL AND EFFECTIVE DATE OF SPECIAL ASSESSMENT RESOLUTION**

County commissioners must act to approve or disapprove a final plan or amendment within 60 days of its receipt from the planning committee. However, ORC Section 4931.44 (A) prohibits the county commissioners from approving the final plan until after a resolution enacting a special assessment becomes effective. Since ORC Section 4931.51 (D) provides that the special assessment resolution may not become effective for 30 days after its adoption, it is clear that commissioners must adopt the resolution at least 30 days before the end of the 60 day period they are given to approve or disapprove the final plan. Since inaction by the county commissioners within the 60 days is presumed to be disapproval of the plan, this timing problem could mean that a new planning committee would have to be convened and the process would have to start over again whether it is a new plan or an amendment to an existing plan. Of even greater concern is, if the resolution enacting the special assessment becomes subject to referendum or if the county submits the question to the electors, then it appears that the statutory deadline for plan approval by the county commissioners can not be met. In both cases the commissioners must act on the plan within 60 days of its receipt from the planning committee or the plan is disapproved, but on the other hand, the new law precludes their acting on the plan until after the special assessment resolution is effective. There is no way to meet both deadlines.

### **105.0544 AMENDMENT OF SPECIAL ASSESSMENT CHARGES (ORC 4931.51 (C))**

The law grants broad authority to the county commissioners to change the amount of the special assessment charge when the board of commissioners "considers it advisable." It appears that there is no requirement to hold public hearings on this change or even to give notice of such an impending change.

The imposition of the special assessment by the county commissioners is initially contingent upon the inclusion of a special assessment provision in an initial or an amended final plan. However, based upon ORC Section 4931.45 (C)(3), subsequent changes in the amount of the special assessment are not considered amendments to the final plan that must go through the plan amendment process provided by law.

### **105.0545 COLLECTION OF SPECIAL ASSESSMENT**

To collect the special assessment county commissioners certify the charges to the county auditor, who places them on the real property tax duplicate. The assessment is then included on the property tax bill and becomes a lien on the property so assessed. When collected, the revenues derived from the special assessment are placed in a separate fund in the county treasury to pay the costs that were authorized in the resolution establishing the special assessment.

Note that commissioners should work closely with their auditor in this regard to assure that reasonable administrative costs are included when the amount of the special

assessment is established, and to assure that they clearly understand the amount of time that the auditor will need to place the special charge on the tax duplicate.

If it is anticipated that debt will be issued to establish, equip, or furnish a PSAP, the resolution enacting the special assessment must declare that bonds or notes will be issued in anticipation of the collection of the special assessments. In a similar vein, the county auditor, when placing the special assessment on the tax duplicate where debt is issued, must include interest at the same rate as that to be paid on the bonds that are issued in anticipation of the collection of the special assessments.

#### **105.06 TELEPHONE ACCESS LINE CHARGES (ORC 4931.52 and ORC 4931.53)**

In an effort to assist counties who were having difficulty in obtaining a method to finance their 9-1-1 plan two specific laws were passed. Each law provided for the imposition of a telephone access line charge for a distinctive purpose. Counties that had a 9-1-1 system operating prior to the passage of each law were not eligible to utilize either of these sections for financing their counties final 9-1-1 plans.

#### **105.061 COUNTIES ELIGIBLE TO USE THE ORC 4931.52 TELEPHONE ACCESS LINE CHARGE**

The following conditions had to be met before a county is eligible to use the telephone access line charge provided by ORC Section 4931.52 (authorized under H.B. 344 - effective June, 1994):

1. A final 9-1-1 plan was not been approved prior to September 21, 2000.
2. The county has an approved final 9-1-1 that has not been put into effect because of a lack of funding.
3. The county commissioners have submitted to the electors, at least once, the question of financing the system by either a real property tax levy, a "special assessment", or a permissive sales and use tax, and the question was rejected by the electors.
4. No more than three PSAP's are to be established as a part of a countywide 9-1-1 system. In addition, these PSAP's must be the only 24 hour answering points in the county.

The use of the surcharge is specifically limited to the *“equipment costs of establishing and maintaining no more than three PSAP's of a countywide system.”* Funds can not be used to pay for staff costs of operating the PSAP.

### **105.062 COUNTIES ELIGIBLE TO USE THE ORC 4931.53 TELEPHONE ACCESS LINE CHARGE**

The following conditions had to be met before a county was eligible to use the telephone access line charge provided by ORC 4931.53 (authorized under H.B. 152 - effective September, 2000):

1. A final 9-1-1 plan has not been approved prior to June 1, 1994.
2. The county has an approved final 9-1-1 that has not been put into operation because of a lack of funding.

The use of the surcharge is specifically limited to pay for the *“operating and equipment costs of establishing and maintaining no more than one PSAP of a countywide 9-1-1 system.”*

At the time of the effective date of this legislation the qualifying conditions for use effectively limited this funding option to nine counties: Carroll, Columbiana, Harrison, Meigs, Monroe, Morgan, Noble, Vinton, and Washington.

### **105.063 IMPOSITION OF MONTHLY CHARGE ON TELEPHONE ACCESS LINES**

A monthly charge on telephone access lines may be proposed by resolution of the county commissioners which must be placed on the ballot and approved by majority vote.

When imposing the monthly surcharge, the commissioners' resolution must contain the following information:

1. The amount of the monthly charge up to an amount not to exceed 50 cents per month.
2. The month the charge will first be imposed which can not be earlier than four months after the issue is on the ballot.
3. Direction to the board of elections to submit the question of imposing the charge to the electors at the next primary or general election in the county.

### **105.064 ENACTMENT PROCEDURES**

Before adopting a resolution imposing the charge and submitting it to the board of elections the following procedures must be followed by the board of commissioners:

1. Two public hearings on the proposed monthly charge must be held.

2. Before the first public hearing, notice of the hearings must be published once a week for two consecutive weeks in a newspaper of general circulation in the county.
3. The published notice must state the amount of the proposed charge, an explanation of its necessity, and the date, time, and location of the hearing.
4. After the public hearings, the board of commissioners may adopt the resolution and certify a copy of the resolution to the board of elections at least 75 days before the next primary or general election at which it will be voted upon.

#### **105.065 AUTHORITY TO CHANGE THE AMOUNT OF THE MONTHLY CHARGE**

Once the telephone surcharge is approved by the electors, the county commissioners may change the amount of the charge to an amount lesser than was authorized in the commissioners' resolution. The amount of the charge, however, can not be changed more than once a year. The amount may not be changed to an amount greater than the amount approved by the voters without holding an election on the question of the greater charge.

#### **105.066 COLLECTION OF SURCHARGE AND REMITTANCE TO COUNTY (ORC 4931.54)**

Telephone companies are required to bill and collect the monthly charge from each residential and business customer as a part of their normal monthly billing process. The company may list the charge as a separate entry on each bill and may indicate on the bill that the charge is made pursuant to approval of a ballot issue by county voters. The telephone company must remit the money collected to the county on a quarterly basis and may retain three percent of the amount collected as an administrative fee.

Money received from the imposition of the telephone surcharge must be deposited into a special revenue fund. This fund must be established following the procedures contained in ORC Section 5705.12. It can be used only for the specific purposes contained in the section under which it was imposed.

The law provides that any customer billed for the telephone surcharge is liable to the county, not to the telephone company, for the amount billed and if a customer does not pay the bill the company is not liable to pay the county. If a customer only pays part of the telephone bill, the company will first apply any partial payment to the amount that the customer owes the company. The telephone company must keep accurate records of the charges it bills and collects on behalf of the county. These records are open for inspection by the county during normal business hours. If a telephone company fails to bill a customer for the surcharge, it must make the payment to the county.

### **105.067 CONTRACT WITH ANOTHER COUNTYWIDE 9-1-1 SYSTEM FOR PSAP**

For the purposes of ORC Section 4931.53, the PSAP of one countywide 9-1-1 system may serve as the PSAP of another countywide system when one or both of the countywide systems derives their revenue from a monthly charge imposed under this section. ORC Section 4931.53 (D) authorizes an agreement between two countywide 9-1-1 systems to allow payments from a countywide 9-1-1 system funded with a telephone charge to the other system that has the PSAP.

### **105.068 APPROVAL OF SURCHARGE CONSTITUTES AUTOMATIC AMENDMENT TO FINAL 9-1-1 PLAN**

If the electors approve the imposition of a telephone surcharge under either of these two sections of the Revised Code, the 9-1-1 planning committee's modification of the final 9-1-1 plan to incorporate the provisions of the surcharge is automatic and does not constitute a plan amendment that would be subject to the statutory plan amendment procedures. Similarly, the agreement between two countywide 9-1-1 systems which is authorized by ORC Section 4931.53 (D) for the purpose of allowing payments from a countywide 9-1-1 system funded with a telephone charge to the other system that is operating the PSAP is automatic and does not constitute a plan amendment that would be subject to the statutory plan amendment procedures.

### **105.07 FUNDING TO SUPPORT COUNTY ENHANCED WIRELESS 9-1-1 SERVICE (ORC 4931.64)**

HB 361 (125<sup>th</sup> General Assembly) is permissive and does not require that enhanced wireless 9-1-1 service be provided by the counties. It does, however, require counties to amend their final 9-1-1 plan to provide for wireless enhanced 9-1-1 in order to receive funding from the Wireless 9-1-1 Government Assistance Fund established by the legislation. A county's distribution from the Fund will be determined annually based upon the percentage of the number of cell phone billing addresses located in that county to the total number of cell phone billing addresses located within the State of Ohio with each county being guaranteed a minimum of \$90,000 per year. Initially the minimum guarantee was set at \$25,000 per year in HB 361 but was increased to \$90,000 beginning in 2009 by SB 129 (127<sup>th</sup> General Assembly). The percentage calculation for each county is to be completed not later than January 25 for each succeeding calendar year of the funding program. Revenue credited to the Fund during one month must be distributed no later than the last day of the second proceeding month (i.e. a company's August receipts are to be transferred to the PUCO during the month of September and the PUCO will distribute the funds to a county during the month of November).

### **105.071 ASSESSMENT AND COLLECTION OF WIRELESS 9-1-1 CHARGE (ORC 4931.61)**

A monthly charge is imposed upon each wireless telephone number of a wireless service subscriber that has a billing address in Ohio, beginning August 1, 2005 [the first day of



the third month following May 6, 2005 – HB 361's effective date] and expiring on December 31, 2012. This charge can only be prescribed by an act of the General Assembly (ORC 4931.67).

The amount imposed initially on each cell phone number was 32 cents per month and was collected from August 2005, through December 2008. This amount was reduced by S.B.129 (127th General Assembly) to 28 cents per month effective January 1, 2009 and will remain at this amount until the statutory authority to collect the charge expires on December 31, 2012.

The wireless service provider or reseller of wireless services must collect the charge from the subscriber as part of the provider's monthly billing process. The charge must be listed as a specific line item on the monthly bill designated "State/Local Wireless-E911 Costs (\$0.28/billed number)." The provider of prepaid wireless service also must collect the charge. A wireless service provider or reseller of wireless services must remit the charge it has collected to the PUCO on or before the last day of the second month following the month for which the wireless 9-1-1 charge was collected.

The provider/reseller may retain 2% of the total of the charges it collects in any month as a billing and collection fee (ORC 4931.62 (A)(2)) The charge revenue that is received from the providers/resellers is credited primarily to the Wireless 9-1-1 Government Assistance Fund (ORC 4931.63 (B)). The chair of the PUCO can place up to not more than two percent of this revenue into the Wireless 9-1-1 Administrative Fund to cover the costs incurred by the Commission, including the compensation of the Ohio 9-1-1 Coordinator, for carrying out the Commission's responsibilities regarding 9-1-1 systems [ORC 4931.63 (A)]

#### **105.072 COUNTY 9-1-1 PLAN AMENDMENT FOR ENHANCED WIRELESS 9-1-1 SERVICE**

The board of county commissioners is required to convene a meeting of the 9-1-1 planning committee to consider amending the county's final 9-1-1 plan for the purpose of establishing wireless enhanced 9-1-1 service. The plan amendment regarding wireless enhanced 9-1-1 service is adopted if approved by a majority vote of the 9-1-1 planning committee. The various political subdivisions of the county are not required to approve a plan amendment for this purpose.

The final 9-1-1 plan amendment must be filed with the PUCO before money from the Wireless 9-1-1 Government Assistance Fund may be released to the county.

#### **105.073 USE OF WIRELESS 9-1-1 GOVERNMENT ASSISTANCE FUNDS (ORC 4931.65)**

Funding received by a county from the Wireless 9-1-1 Government Assistance Fund must be used for the purpose of providing wireless enhanced 9-1-1 service only and can not be used to pay any portion or recover any of the costs associated with the county's wireline

9-1-1 service. This suggests that a county should include a provision within its amended final 9-1-1 plan that establishes a reasonable system for allocating costs for hardware, software, operating expenses and training on a proportional basis between its wireless and wireline 9-1-1 operations.

The funds are to be paid to the county treasurer on a monthly basis to be distributed to the subdivisions in the county that pay the cost of a PSAP providing wireless enhanced 9-1-1 service in accordance with the allocation formula contained in the county's amended final 9-1-1 plan. Funds may be used to pay any cost of:

1. Designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining the necessary data, hardware, software, and trunking required to provide wireless enhanced 9-1-1;
2. Training staff of PSAPs to provide wireless enhanced 9-1-1 which are over and above costs incurred to provide wireline 9-1-1; or
3. Personnel of one or more PSAPs providing countywide wireless enhanced 9-1-1.

The design and equipment for a county wireless enhanced 9-1-1 system is supposed to be compatible with the technical and operational standards of 9-1-1 systems established by the Ohio 9-1-1 Council.

#### **105.074 FIVE PSAPs FUNDING LIMITATION (ORC 4931.651)**

An amendment contained in S.B.129 (127th General Assembly) limited a county on or after March 1, 2009, to paying the costs incurred after that date for not more than five PSAPs of the particular 9-1-1 system from moneys disbursed to the county from the Wireless 9-1-1 Government Assistance Fund.

Ohio Attorney General Opinion 2009-031, issued August 25, 2009, deemed it acceptable for a county that has adopted a final plan for the provision of wireless enhanced 9-1-1 to rotate on a monthly basis the PSAPs that will receive moneys disbursed to the county from the Fund. The opinion noted that nothing in ORC Section 4931.651 or elsewhere in the Revised Code mandates that the county pay the costs of the same PSAPs every month. Absent such a requirement, the opinion concluded that officials of a countywide 9-1-1 system may use their discretion in determining whether to rotate monthly the PSAPs that receive funding from the Fund. It appears quite reasonable for a county to rotate monthly the PSAPs that receive funding when the countywide 9-1-1 system has more than five PSAPs in order to ensure that all the PSAPs operated by subdivisions in the county's 9-1-1 system receive such funding.

#### **105.075 9-1-1 SERVICE PROGRAM MANAGEMENT (ORC 4931.60 and 4931.67-.70)**

The 9-1-1 Service Program in the PUCO is headed by the Ohio 9-1-1 Coordinator who is responsible for administering and managing the Wireless 9-1-1 Government Assistance

Fund. The PUCO has authority to adopt rules in accordance with the Administrative Procedure Act (ORC Chapter 119) to implement and administer the 9-1-1 wireless program provisions. A current specific responsibility of the Ohio 9-1-1 coordinator is to submit a report to the General Assembly by November 30, 2011, which includes a review of the implementation and provision of wireless enhanced 9-1-1 in the state, description of how moneys disbursements from the wireless 9-1-1 government assistance fund have been used, and a recommendation for the FY 13/14 biennium of any change in the amount of the wireless 9-1-1 charge and the basis for that recommendation.

The Ohio 9-1-1 Council is responsible for the arbitration and establishment of nondiscriminatory, competitively neutral, and uniform technical and operational standards for 9-1-1 systems in Ohio that are consistent with recognized industry standards and federal law, however, it can not prescribe the technology that a telephone company or reseller must use to deliver 9-1-1 calls. The Council is also to conduct research and make recommendations or reports regarding wireline and wireless 9-1-1 issues, any improvements in the provision of service by 9-1-1 systems in Ohio, or any legislation or policies concerning such systems. The Council is to submit names of nominees, recommend the duties for, and review the performance of the Ohio 9-1-1 Coordinator. The Ohio 9-1-1 Council, consists of 11 members appointed to staggered three year terms as follows:

1. The Ohio 9-1-1 Coordinator,
2. A designee of the Department of Public Safety, selected by the Director of Public Safety,
3. Nine members appointed by the Governor which must include:
  - a. One representative of public safety communications officials in Ohio,
  - b. One representative of administrators of 9-1-1 service in Ohio,
  - c. One representative of countywide 9-1-1 systems in Ohio [recommended by the CCAO],
  - d. Three representatives of wireline service providers in Ohio,
  - e. Three representatives of wireless service providers in Ohio.

The Wireless 9-1-1 Advisory Board is to make a recommendation to the Ohio 9-1-1 Coordinator regarding the appropriate amount for the wireless 9-1-1 charge that is to be included by the Coordinator in the required report to the General Assembly. The Advisory Board is also to consult with the Coordinator regarding the report, and make recommendations to and consult with the PUCO and the Coordinator regarding any rules to be adopted by the PUCO to administer the 9-1-1 wireless program provisions. Its

members are the Ohio 9-1-1 Council appointee that represents public safety communication officials and five members appointed to staggered three year terms by the Governor as follows:

1. One of the Council appointees that represents wireless service providers, whose Council term expires after the Council term of the Council appointee representing public safety communications officials,
2. One noncouncil representative of wireless service providers,
3. One noncouncil representative of public safety communications officials,
4. Two noncouncil representatives of municipal and county governments.

#### **105.08 PUBLIC UTILITY EXCISE TAX CREDIT (ORC 4931.47(C))**

Telephone companies may receive a tax credit against their public utility excise tax liability pursuant to ORC Section 5733.55 for the non-recurring costs of installing the telephone network portion of the wireline 9-1-1 system. Telephone company costs incurred for the provision of wireless 9-1-1 are not eligible for the tax credit.

The telephone company is eligible to recover the total nonrecurring charges for its portion of the wireline telephone network of the system and the total nonrecurring charges for any updating or modernization of that wireline telephone network in accordance with the provisions of the final plan as listed with the schedule it filed with the PUCO. The credit is available only upon the completion of the installation of the network or the completion of the updating or modernization.

The credit is not available for the upgrading of a wireline 9-1-1 system from basic to enhanced if both of the following apply:

1. The telephone company received the credit for the wireline telephone network portion of the basic 9-1-1 system now proposed to be upgraded.
2. At the time the final plan was approved, the telephone company was capable of reasonably meeting the technical and economic requirements of providing an enhanced wireline system as determined by the PUCO

If the credit is not allowed the telephone company's costs shall be paid by the municipalities and townships with any territory in the area in which the upgrade from basic to enhanced wireline 9-1-1 was made.

#### **105.09 MUNICIPAL OR TOWNSHIP 9-1-1 SYSTEMS**

If a final countywide plan does not obtain the necessary approvals from political subdivisions, the law does have a provision which allows a municipality, township, or

contiguous groupings of municipalities and townships with at least 30 percent of the total county population to establish their own 9-1-1 system. However, all counties have formed countywide 9-1-1 systems so this provision is irrelevant.

#### **105.10 9-1-1 PUBLIC RECORDS PROVISIONS**

ORC Section 4931.49 (F) specifies that the only information in a 9-1-1 data base serving the PSAP that may not be disclosed is information concerning the telephone numbers, addresses and names of the people in the data base. Some counties have taken the position that they were prohibited from releasing recordings between dispatchers and callers, however, the Public Records Law requires the disclosure of recordings and other 9-1-1 information with the exception noted above.

#### **105.11 DISTINGUISHED FROM “COUNTYWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM”**

Under ORC Section 307.63 a board of county commissioners may establish a countywide public safety communications system which is defined as a system of communications facilities, equipment, and services that helps to provide immediate *field exchange* of police, fire, and emergency medical services information between the county and participating states, political subdivisions, and other public entities. These systems are designed to help the various emergency services personnel communicate at the scene of an emergency and usually are walkie-talkie or radio systems. The newer versions of these systems permit multiple user communications without the need to go through a central switching operator by creating “talk groups” and are most notably the 800 and 700 Megahertz radio systems.