



COUNTY ADVISORY BULLETIN

CAB

Published by: County Commissioners Association of Ohio

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BULLETIN 1994-02

APRIL 1994

9-1-1 TELEPHONE SURCHARGE AUTHORIZED FOR SELECTED COUNTIES

INTRODUCTION

As of April 1, 1994 fifty-eight counties have implemented 9-1-1. Recently legislation was enacted to give counties that have not yet implemented 9-1-1 the authority to impose a monthly charge on telephone access lines to pay for the equipment costs of establishing and maintaining Public Safety Answering Points (PSAP's). The legislation may be of limited use to some of the affected counties because Ohio's telephone industry was successful in eliminating the authority to use the monthly charge for staffing and other operating costs that are not related to purchasing and maintaining PSAP equipment.

This new law becomes effective June 1, 1994. The legislation, H.B. 344, was sponsored by Representative Sean Logan (D-Lisbon) at the request of the Columbiana County Commissioners. CCAO has supported moving 9-1-1 funding to a user oriented fee for a number of years.

This CAB will explain the details of this new law and will summarize the existing funding options for 9-1-1. This CAB will not discuss various other procedures required to implement 9-1-1.

These are discussed in detail in Chapter 105 of the COUNTY COMMISSIONERS HANDBOOK, which is available from CCAO. For those who have copies of the HANDBOOK, it is recommended that this CAB be three hole punched and inserted after the CCAO INFORMATION tab at the end of the HANDBOOK for future reference. Attached to this CAB is a copy of a flow chart that summarizes the procedural details of the 9-1-1 planning process.

EXISTING FINANCING OPTIONS FOR 9-1-1

Existing law authorizes four primary options to fund the local costs of establishing and maintaining a 9-1-1 system. These four funding options include:

1. To allocate local costs among political subdivisions in the county that are served by PSAP's. These costs must be allocated in a 9-1-1 Plan, that is subject to a statutory ratification process. In most situations to date this has meant that the county must find the money to pay for the system, depending on the number of PSAP's that are included in the 9-1-1 Plan.
2. To submit to the electors a real property tax levy (ORC 5705.19).
3. To establish a fixed charge on each parcel of land in the county that is improved or is in the process of being improved. This option is popularly referred to as a "special assessment" (ORC 4931.51).
4. To submit to the electors a sales and use tax at a rate of either 1/4 or 1/2 percent (ORC 5739.026).

These options exist for all counties to pay the local costs of 9-1-1. It should be noted, however, that telephone companies also have significant costs in implementing a 9-1-1 system. The law provides that telephone companies are responsible for the non-recurring costs of the telephone network. These include needed new equipment so that the company can provide the service. Most of these costs, however, are recovered by the telephone company from a public utility excise tax credit, commonly referred to by the industry as a gross receipt tax credit. Since this reduces the tax liability of the telephone company, this credit essentially becomes a state general fund subsidy, and was a key element of the original legislation that made 9-1-1 possible.

In addition, telephone users pay for the recurring costs associated with the telephone network portion of the 9-1-1 system. The amount of this charge is included on the customer's phone bill and is paid by residential and business customers on the basis of the number of access lines. These charges are approved by the Public Utilities Commission of Ohio (PUCO), and are periodically reviewed.

COUNTIES ELIGIBLE TO USE THE TELEPHONE SURCHARGE

Counties that now have a 9-1-1 system operating may not use the telephone surcharge. All of the following conditions must be met before a county is eligible to use the new surcharge authority authorized under H.B. 344:

1. A county may use the new authority if a Final 9-1-1 Plan has not been approved prior to June 1, 1994 following the statutory approval procedure.

2. A county that has approved a 9-1-1 Plan may use the new authority if the system has not been put into effect because of a lack of funding.

3. A county may use the new authority if 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. A county may use this new authority only when 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.

PURPOSES FOR WHICH FUNDS MAY BE USED AND MAXIMUM MONTHLY CHARGE

The law authorizes county commissioners to impose the telephone surcharge, as a monthly charge on telephone access lines, by resolution of the county commissioners. It is subject to voter approval. The use of the funds derived from the monthly charge is limited to the equipment costs of establishing and maintaining PSAP's. Funds can thus not be used to pay for the staff costs of operating the PSAP. The intent of the legislation is to allow the funds to be used for the maintenance of equipment, not the costs of maintaining the 9-1-1 system which would include staff. While not addressed directly in the legislation, it appears that costs of non-PSAP equipment in the 9-1-1 dispatch center would be eligible, however, before using funds for other than PSAP equipment, counties should receive a ruling from the county prosecutor and should consult with the PUCO. The amount of the monthly charge may not exceed 50 cents.

CONTENTS OF COMMISSIONERS' RESOLUTION

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

1. The amount of the monthly charge, not to exceed 50 cents per month.
2. The month the charge will first be imposed. The charge, however, can not be imposed earlier than four months after the issue is approved by the electors.
3. The resolution must direct 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.

ENACTMENT PROCEDURES

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

1. County commissioners must hold two public hearings on the proposed monthly charge.
2. Before the first public hearing, county commissioners must publish notice of the hearings 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. The commissioners must, after the public hearings, 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.
5. The monthly charge becomes effective only if it is approved by a majority of the electors

CHANGES IN 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 a new election.

CREATION OF SPECIAL REVENUE FUND

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 5705.12. It can be used only for the necessary equipment costs of establishing and maintaining no more than three PSAP's of a countywide 9-1-1 system. In determining eligible costs, the statute (ORC 4931.52 (D)) provides that the county may seek assistance from the PUCO with regard to operating and maintaining the 9-1-1 system.

AMENDMENT TO FINAL 9-1-1 PLAN

If the electors approve the imposition of a telephone surcharge, the 9-1-1 Planning Committee must amend the Final 9-1-1 Plan. This amendment, however, does not have to go through the normal plan ratification process that generally applies to 9-1-1 plan amendments.

COLLECTION OF TELEPHONE SURCHARGE AND REMITTANCE TO COUNTY

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. These customers are required to pay the monthly charge for its access lines to the telephone company. The company may list the charge as a separate entry on the bill and may indicate that the charge is made pursuant to a ballot issue that was approved by the voters.

The law provides, however, that any customer billed for the telephone surcharge is liable to the county, not to the telephone company, for the amount billed. In addition, if a customer does not pay the bill the company is not liable to pay the county. Likewise, 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.

Finally, the telephone company must remit the money collected to the county on a quarterly basis. The company may retain three percent of the amount collected as an administrative fee.

CONCLUSION

Counties that do not have 9-1-1 systems in place now have a new option to fund part of the costs of establishing such systems. While the bill was watered down considerably from the original proposal, some counties may still find it to be a useful option to help get life saving 9-1-1 systems up and operating. CCAO continues to feel that the amount of the surcharge needs to be increased to an amount not to exceed \$1.00 per month and that the authorized purposes should be expanded to include necessary operational funds.