

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

195P0530

SENATE STATE AFFAIRS  
ENGROSSED NO. **SB 143** - 1/30/2008

Introduced by: Senators Gray, Bartling, Dempster, Hanson (Gary), McCracken, and Nesselhuf and Representatives Faehn, Brunner, Hargens, Miles, and Rave

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding collection and  
2 administration of the 911 emergency surcharge and operation of 911 services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-45-1 be amended to read as follows:

5 34-45-1. Terms used in §§ 34-45-1 to 34-45-17, inclusive, mean:

- 6 (1) "Basic 911," any service which provides the user of a ~~public telephone system~~ calling  
7 device, which utilizes any telecommunications technology, the ability to reach a  
8 public safety answering point to report police, fire, medical, or other emergency  
9 situations by dialing 911;
- 10 (2) "Board," the South Dakota 911 Coordination Board created pursuant to § 34-45-18;
- 11 (3) "Enhanced 911," any ~~emergency telephone~~ system which provides the user of a  
12 ~~public telephone system~~ calling device, which utilizes any telecommunications  
13 technology, the ability to reach a public safety answering point by dialing the digits  
14 911, and which routes ~~an incoming 911~~ that call to the appropriate public safety



1           ~~answer point in a 911 service area and which automatically displays the name,~~  
2           ~~address, and telephone number of an incoming 911 call on a video monitor at the~~  
3           ~~appropriate public safety answer point provides information about the user to a 911~~  
4           ~~dispatcher including the user's name, location, call back number, and assigned~~  
5           ~~emergency responders;~~

6           ~~(3)~~(4) "Governing body," the board of county commissioners of a county or the city council  
7           or other governing body of a county or municipality or the board of directors of a  
8           special district;

9           (5)   "Interconnected Voice-over Internet Protocol (VoIP) service," any service with the  
10           following characteristics:

- 11           (a)   Enables real-time voice communication;
- 12           (b)   Requires a broadband connection from the user's locations;
- 13           (c)   Requires IP-compatible equipment; and
- 14           (d)   Permits users to receive calls that originate and terminate on the public  
15           switched telephone network;

16           (6)   "Interconnected VoIP service line," a service that offers an active telephone number  
17           or successor dialing protocol assigned by a VoIP provider to a VoIP service customer  
18           that has outbound calling capability which can directly access a public safety  
19           answering point when the VoIP service customer has a primary place of use in the  
20           state;

21           ~~(4)~~(7) "Local exchange access Telecommunications company," any franchised telephone  
22           ~~company engaged in providing provider of a telecommunications services between~~  
23           ~~points within a local calling area service that either originates or terminates with at~~  
24           ~~least one person or point in the state;~~

1       ~~(5)~~ "Local exchange access lines," any telephone line or cellular telephone that connects  
2               a telephone subscriber to the local switching office and has the capability of reaching  
3               local public safety service agencies;

4       ~~(6)~~(8) "911 emergency reporting system" or "911 system," any ~~telephone~~  
5               telecommunications service system consisting of network, database, and on-premises  
6               equipment which utilizes the single three-digit number 911 for reporting police, fire,  
7               medical, or other emergency situation;

8       ~~(7)~~(9) "911 emergency surcharge," any charge set by the governing body and assessed on  
9               each ~~local exchange access line~~ any telecommunications service which physically  
10              terminates or originates within the governing body's designated 911 service area. For  
11              a mobile telecommunications service, the term, 911 emergency surcharge, means any  
12              charge set by the governing body and assessed per cellular telephone identified  
13              within the governing body's designated 911 service area as determined by the  
14              customer's place of primary use as defined in 4 U.S.C. § 124 as in effect on July 28,  
15              2000. Notwithstanding any other provision of this chapter and for purposes of the  
16              surcharge imposed by this chapter, the surcharge imposed upon mobile  
17              telecommunication services shall be administered in accordance with 4 U.S.C.  
18              §§ 116-126 as in effect on July 28, 2000. For prepaid ~~wireless telephone calling~~  
19              telecommunications services, the term, 911 emergency surcharge, means any charge  
20              set by the governing body and assessed ~~per month of~~ for service purchased within the  
21              governing body's designated 911 service area state;

22       ~~(8)~~(10) "Nonrecurring costs," any capital ~~and~~ or start-up expenditure ~~for~~ such as  
23              telecommunications equipment, software, database, initial training, and the  
24              purchase or lease of subscriber names, addresses, and telephone information

1 for the local exchange access company;

2 (11) "Place of primary use," the street address where the customer's use of the  
3 telecommunications service primarily occurs. For purposes of 911 emergency  
4 surcharge fees, place of primary use is the customer's registered location on the date  
5 the customer is billed;

6 ~~(8A)~~(12) "Prepaid wireless ~~telephone~~ telecommunications service," any wireless  
7 telephone telecommunications service that is activated in advance by payment  
8 for a finite dollar amount of service or for a finite number of minutes that  
9 terminate either upon use by any person ~~and delivery by the wireless provider~~  
10 ~~of an agreed amount of service corresponding to the total dollar amount paid~~  
11 ~~in advance~~ or within a certain period of time following the initial purchase or  
12 activation, unless an additional payment is made;

13 ~~(9)~~(13) "Public agency," any municipality, county, public district, or public authority  
14 located in whole or in part within this state which provides or has the authority  
15 to provide fire fighting, law enforcement, ambulance, emergency medical, or  
16 other emergency services;

17 ~~(10)~~(14) "Public safety answering point," any twenty-four hour communications facility  
18 which receives all 911 service calls and reroutes the requestor or information  
19 to appropriate public or private safety agencies;

20 ~~(11)~~(15) "Recurring costs," any costs such as network access fee and other telephone  
21 charges, software, equipment, database management, maintenance, charges to  
22 maintain database of subscriber names, addresses, and telephone information  
23 from the local exchange access company. Recurring costs may include  
24 personnel expenses for a public safety answering point ~~and any other costs~~

1 directly related to the operation of the 911 service;

2 (16) "Service provider," any person or entity providing, offering to provide, or selling a  
3 telecommunications service. The retail sale of prepaid wireless telecommunications  
4 service constitutes the sale of telecommunications service for the purposes of the  
5 surcharge imposed by this chapter;

6 ~~(12)~~(17) "Service supplier," any person or entity who provides or offers to provide 911  
7 system equipment, installation, maintenance, or exchange access services  
8 within the 911 service access area; and

9 ~~(13)~~(18) "Service user," any person who is provided local access exchange telephone  
10 a telecommunications service in this state;

11 (19) "Telecommunications service," any means of delivering voice communications from  
12 point to point or person to person through the use of identifying digits assigned to a  
13 particular user to initiate the communication, including telephone, wireline, wireless,  
14 prepaid, or Interconnected VoIP services and includes the retail sale of prepaid  
15 wireless telecommunications service.

16 Section 2. That § 34-45-2 be amended to read as follows:

17 34-45-2. The governing body of a public corporation may by ordinance authorize a 911  
18 emergency reporting system. The ordinance shall include a description of the proposed 911  
19 service area and the maximum surcharge amount.

20 Section 3. That § 34-45-3 be amended to read as follows:

21 34-45-3. Any governing body may incur any nonrecurring or recurring costs for the  
22 installation, maintenance, or operation of a 911 system and may pay such costs by imposing a  
23 911 emergency surcharge for such service in those portions of the governing body's jurisdiction  
24 for which 911 service will be provided in whole or in part from a 911 emergency surcharge. If

1 the 911 system is to be provided for any territory included in the jurisdiction of the governing  
2 bodies of two or more public agencies the public agencies may enter into a joint agreement for  
3 such service ~~unless any such body expressly excludes itself therefrom. Any such agreement shall~~  
4 ~~provide that each governing body which is a customer of such service shall make payment~~  
5 ~~therefor from general revenues. Nothing in this section prevents two or more such governing~~  
6 ~~bodies from entering into a contract to establish a separate legal entity to enter into such an~~  
7 ~~agreement as the customer of the service supplier.~~

8 Section 4. That § 34-45-4 be amended to read as follows:

9 34-45-4. Upon compliance with § 34-45-2, the governing body may ~~impose~~ collect a  
10 monthly uniform charge in an amount not to exceed seventy-five cents per service user line ~~on~~  
11 ~~each local exchange access line of the governing body's jurisdiction for which the 911 system~~  
12 ~~will be provided~~ billed to the service user on a periodic basis. The board may collect up to three  
13 percent of the charge for any prepaid telecommunication service sold in the state. The proceeds  
14 ~~of this charge shall be utilized to pay~~ are continuously appropriated for reimbursement of  
15 nonrecurring and recurring costs of the 911 ~~related~~ service and operating expenses of the board.  
16 No such charge may be imposed upon more than one hundred ~~local exchange access~~ service  
17 user lines or equivalent service, per customer account billed, per month.

18 Section 5. That § 34-45-5 be amended to read as follows:

19 34-45-5. ~~Any charge imposed pursuant to §§ 34-45-3 and 34-45-4 and required to be~~  
20 ~~collected by the local exchange access company shall be added to, and shall be stated separately~~  
21 ~~in, the billings to the service user. Any person utilizing telecommunications service in the state~~  
22 is liable for the applicable 911 emergency surcharge. Any service provider providing any  
23 telecommunications service within the state or which is used within the state shall collect and  
24 remit to the governing body the applicable 911 emergency surcharge for telecommunications

1 services billed to service users monthly or the Department of Revenue and Regulation the  
2 applicable 911 emergency surcharge for prepaid telecommunication service. The surcharge shall  
3 be stated separately in any billing statement, invoice, or receipt.

4 Section 6. That § 34-45-6 be amended to read as follows:

5 34-45-6. Each ~~billed~~ service user is liable for any charge imposed pursuant to §§ ~~34-45-3~~  
6 ~~and § 34-45-4~~ until it has been paid to the ~~local exchange access company~~ service provider.

7 Section 7. That § 34-45-8 be amended to read as follows:

8 34-45-8. Any charge imposed pursuant to §§ ~~34-45-3~~ and § 34-45-4 and the amounts  
9 ~~required to be collected are to~~ shall be remitted to the governing body ~~quarterly. The amount of~~  
10 ~~the charge collected in one calendar quarter by the local exchange access company shall be~~  
11 ~~remitted to the governing body no later~~ for telecommunications service billed to service users  
12 monthly and to the Department of Revenue and Regulation for prepaid telecommunications  
13 service sold in the state on a return required by the Department of Revenue and Regulation. Not  
14 more than thirty days after the close of the calendar quarter. On or before the sixteenth day of  
15 each month following, a return for the preceding quarter shall be filed with the governing body  
16 in such form as the governing body and local exchange access company shall agree upon. The  
17 ~~local exchange access company required to file the return~~ each service provider shall deliver the  
18 a return together with a remittance of the amount of the charge payable, to the Department of  
19 Revenue and Regulation or the appropriate governing body. The local exchange access company  
20 Each service provider shall maintain a record of collections made for a period of one year after  
21 the collection.

22 Section 8. That § 34-45-8.1 be repealed.

23 ~~34-45-8.1. Each prepaid wireless telephone calling service provider shall remit the surcharge~~  
24 ~~amount on each account for which service has been paid and not yet used to the governing body~~

1 ~~each calendar quarter pursuant to § 34-45-8. The surcharge amount shall be remitted to the~~  
2 ~~location associated with the telephone number that is programmed into the wireless telephone~~  
3 ~~that will be providing prepaid wireless telephone service. If the prepaid wireless telephone~~  
4 ~~calling service provider is unable to determine the location of the customer, the surcharge~~  
5 ~~amount shall be remitted based on the place at which the customer paid for the prepaid wireless~~  
6 ~~telephone service. The prepaid wireless telephone calling service provider may deduct units of~~  
7 ~~usage equivalent to the amount of the surcharge from the unused telecommunication service,~~  
8 ~~if the provider has so notified the purchaser at or before the time of purchase.~~

9 Section 9. That § 34-45-12 be amended to read as follows:

10 34-45-12. Funds There is hereby created within the state treasury the South Dakota 911  
11 Coordination fund. Any funds collected from the prepaid telecommunication service charge  
12 imposed pursuant to §§ ~~34-45-3~~ and § 34-45-4 shall be credited to a special fund, apart from the  
13 ~~general fund of the public agency, for payments of nonrecurring and recurring costs and for the~~  
14 ~~general operational expense of the 911 related service, including but not limited to the personnel~~  
15 ~~costs of the dispatchers or the monthly contract costs billed by the public safety answering point.~~  
16 ~~If the 911 system is discontinued, any money remaining in the fund after all payments to the~~  
17 ~~service supplier pursuant to this section have been made shall be transferred to the general fund~~  
18 ~~of the public agency or proportionately to the general funds of each participating public agency~~  
19 deposited in the South Dakota 911 Coordination fund. The board may authorize disbursements  
20 from the fund pursuant to this chapter for approved nonrecurring costs requested by the  
21 governing body of eligible 911 public safety answering points.

22 Section 10. That § 34-45-18 be amended to read as follows:

23 34-45-18. There is hereby established the South Dakota 911 ~~Coordinated Statewide System~~  
24 ~~Task Force. The task force shall evaluate the current 911 emergency reporting system in South~~

1 ~~Dakota, develop a plan for implementation of a coordinated statewide system covering as much~~  
2 ~~of the state as is practicable, and provide recommendations for the implementation, operation,~~  
3 ~~and funding of such a coordinated statewide 911 system in a report to the Governor by~~  
4 ~~November 30, 1998~~ Coordination Board. The board shall set minimum standards for operation  
5 of public safety answering points, determine criteria for reimbursement for nonrecurrent costs  
6 and the amount of reimbursement, and oversee the coordination of 911 services within the state.

7 Section 11. That § 34-45-18.1 be amended to read as follows:

8 34-45-18.1. The South Dakota 911 ~~Coordinated Statewide System Task Force~~ Coordination  
9 Board created pursuant to § 34-45-18 ~~is hereby continued and shall be expanded to include at~~  
10 ~~least one representative shall consist of representatives~~ from each of the following groups ~~as~~  
11 appointed by the Governor for three-year terms, the initial appointments shall be for staggered  
12 terms:

13 (1) One representative of the South Dakota Chapter of the Association of Public Safety  
14 Communication Officials;

15 (2) One representative of the South Dakota Chapter of the National Emergency Numbers  
16 Association, the South Dakota Emergency Management Association, the South  
17 Dakota Emergency Medical Technicians Association, the South Dakota Firefighters  
18 Association;

19 (3) Two representatives who are South Dakota telecommunications service providers;

20 (4) One representative who is an employee of the South Dakota Department of Public  
21 Safety;

22 (5) Two representatives of the South Dakota Association of County Commissioners;

23 (6) Two representatives of the South Dakota Municipal League;

24 (7) One representative of the South Dakota Police Chiefs Association; and

1       (8) One representative of the South Dakota Sheriffs Association, and at least one  
2             member from an operating public safety answering point system.

3       The Governor shall be provided with a list of ten persons for each board position from each  
4 group represented. The Governor has the authority to reject any or all names provided. The  
5 Governor may also remove any person appointed to the board at any time without cause. The  
6 ~~task force shall~~ board may conduct public hearings to develop and recommend standards for  
7 operation and utilization of public safety answering points.

8       Section 12. That § 34-45-18.2 be amended to read as follows:

9       34-45-18.2. The ~~task force shall develop a set of minimum~~ board may promulgate rules  
10 pursuant to chapter 1-26 setting:

11       (1) Minimum technical, operational, and procedural standards for the operation and  
12             utilization of a public safety answering point;

13       (2) Requirements and amounts for reimbursement of recurring and nonrecurring costs;  
14             and

15       (3) Standards for coordination of effective 911 service on a statewide basis.

16       Section 13. That § 34-45-18.3 be repealed.

17       ~~34-45-18.3. Each public safety answering point shall obtain a full audit report on 911 traffic~~  
18 ~~from its telephone service provider and provide that information to the task force for use in the~~  
19 ~~preparation of the standards. Each public safety answering point shall provide the audit report~~  
20 ~~to the task force no later than August 2, 1999.~~

21       Section 14. That § 34-45-19 be amended to read as follows:

22       34-45-19. The Governor shall appoint such persons to the task force as the Governor  
23 considers necessary to adequately evaluate the current system and for the development of the  
24 implementation of such a system. The task force board is attached to the Department of Military

1 ~~and Veterans Affairs, Division of Emergency Management~~ Public Safety for administrative  
 2 purposes. The ~~division~~ department shall assist the ~~task force~~ board and coordinate the  
 3 development of the coordinated statewide 911 system. The board may employ a 911 coordinator  
 4 within the department to assist with the coordination of the statewide 911 system.

5 Section 15. That § 34-45-20 be amended to read as follows:

6 34-45-20. The ~~task force~~ board shall:

7 (1) Evaluate all of the current public safety answering points and systems throughout the  
 8 State of South Dakota for their capability to adequately and efficiently administer  
 9 systems;

10 (2) ~~Prepare a cost benefit analysis of administrative and operational expenses for all~~  
 11 ~~existing 911 public safety answering points and systems;~~

12 ~~(3) Consider the feasibility and advisability of consolidating jurisdictions or systems for~~  
 13 ~~the purposes of more efficiently administering systems and utilizing available funds;~~

14 ~~(4) Prepare alternative~~ Develop plans for the implementation for a coordinated uniform  
 15 statewide 911 system covering the entire state or so much as is practicable;

16 ~~(5)(3) Prepare a detailed report of~~ Monitor the number and location of public safety  
 17 answering points or systems and the use of 911 emergency surcharge funds in their  
 18 administrative and operational ~~revenues and~~ budgets;

19 ~~(6)(4) Provide a report of alternative proposals~~ Develop criteria and minimum standards for  
 20 operating and financing public safety answering points or systems; ~~and~~

21 ~~(7)(5) Present its findings, implementation plan and recommendations to the Governor by~~  
 22 ~~November 30, 1998, for consideration~~ Develop criteria for the eligibility and amount  
 23 of reimbursement of recurrent and nonrecurrent costs of public safety answering  
 24 points or systems; and

1       (6)   Report annually to the Governor and the Legislature about the operations and  
2           findings the board and any recommendations for changes to 911 service in the state.

3       Section 16. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5       No later than July 1, 2010, each governing body and 911 system shall provide enhanced 911  
6 service.