



COUNTY ADVISORY BULLETIN

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Revised: APRIL 2006

**HB 361 - WIRELESS ENHANCED 9-1-1 SERVICE
Implementation Requirements & State Funding Assistance for counties
to provide Enhanced 9-1-1 service for cell phone calls
[SB 9 - Plan approval process changes]**

Lead Sponsor: Rep. Flowers (R-Canal Winchester)

House Co-Sponsors: Allen (D-Dayton), Beatty (D-Columbus), Carmichael (R-Wooster), Daniels (R-Greenfield), D. Evans (R-Newark), Faber (R-Celina), Hagan (R-Alliance), Harwood (D-Niles), Martin (R-Avon Lake), Niehaus (R-New Richmond), Olman (R-Maumee), Reinhard (R-Bucyrus), Seitz (R-Cincinnati), Sferra (D-Warren), Strahorn (D-Dayton), and Sykes (D-Akron)

Senate Co-Sponsors: Blessing (R-Cincinnati), DiDonato (D-New Philadelphia), Robert Gardner (R-Madison), Goodman (R-Bexley), Mallory (D-Cincinnati), Roberts (D-Trotwood), and Schuler (R-Cincinnati)

Revised Code Sections Affected: 4931.40 through 4931.50 (amended); 4931.60 through 4931.70 (enacted)

Effective date: May 6, 2005 – HB 361 of the 125th General Assembly
April 14, 2006 - SB 9 of the 126th General Assembly [Sec 4931.45]

HB 361 Overview

Emergency 9-1-1 services are not provided on a statewide basis in Ohio. Sections 4931.40 to 4931.54 and 5727.39 of the Revised Code specify the ways in which a county may arrange for the provision of emergency 9-1-1 services within that county [See also Chapter 105 of CCAO's *County Commissioners' Handbook*]. Consequently, up to this point, there has never been a state created

statewide funding source provided to counties to support the cost of implementing and operating these services.

HB 361 imposes upon wireless service [cell phone] providers/resellers the obligation to collect a 32 cents per month “charge” to be billed to a cell phone number with a billing address located in the State of Ohio during the period of August, 2005, through December, 2008. The revenue generated from this “charge” is estimated to be approximately \$23.6 million annually and is to be deposited into the Wireless 9-1-1 Government Assistance Fund. HB 361 makes no provision for a continuation of any type of funding after the charge expires at the end of 2008.

Counties must amend their current “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 revenues. 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. The state funding is to be used first to cover all costs associated with the acquisition of wireless enhanced 9-1-1 technology and equipment or for training of the staff handling 9-1-1 cell phone calls.

There are three important points to remember regarding the county’s final plan amendment process for establishing wireless enhanced 9-1-1 service:

First, beginning August 1, 2006, the funds received may be used for personnel costs but only after the county has certified to the PUCO that all equipment and training costs have been completed.

Second, a county’s allocation from the Wireless 9-1-1 Government Assistance Fund will be held and made available to that county upon the filing of its final plan amendment with the PUCO as long as the plan amendment has been adopted by December 31, 2008.

Third, current law exempting government agencies from competitive bidding requirements for the purchase, installation, or maintenance of 9-1-1 equipment that is undertaken in compliance with a final 9-1-1 plan is extended to also cover wireless enhanced 9-1-1 PSAP equipment.

HB 361 is permissive with respect to the provision of wireless 9-1-1 service and, furthermore, does not make any fundamental changes to the current county-based provision of emergency 9-1-1 services for wireline [landline] telephone service. As of November, 2004, all counties except Columbiana, Harrison, Meigs, and Monroe have wireline emergency 9-1-1 in service. The 9-1-1 planning process is currently taking place in each of these counties except Meigs.

Background on 9-1-1 Technology and Service Provision

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] which is usually located with the law enforcement agency’s communications center and from which the appropriate emergency services are then dispatched. The telecommunications company routes the 9-1-1 call to the appropriate PSAP.

A 9-1-1 call made from a wireline telephone is capable of providing the PSAP with the automatic display of the telephone number of the phone from which the 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. With cell phone calls, however, most of the PSAPs in Ohio do not have the capability to obtain any identifying information regarding the telephone number, and only a couple have the ability to discern automatically with sufficient accuracy any location information. This requires that the dispatcher taking the call must rely on the ability of actually talking to the cell phone caller in order to "locate" and identify the emergency situation.

The Federal Communications Commission (FCC), based upon an original order issued in 1996 which has been subsequently amended on several occasions, 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 the phone's geographical location to within approximately a one mile radius of the tower it is transmitting through ["Phase I" automatic number identification (ANI) capability]. The second step is to be able to identify the cell phone's actual 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.

County Commissioners Responsibility to Convene 9-1-1 Planning Committee
[Amended to reflect changes to ORC 4931.45 provided in SB 9 of the 126th General Assembly]

A county's Final 9-1-1 Plan previously adopted regarding the provision of 9-1-1 services within that county must be amended to provide a plan for the provision of wireless enhanced 9-1-1 service within the county in order for the county's jurisdictions operating PSAPs to receive funding through the county from the Wireless 9-1-1 Government Assistance Fund. The Final 9-1-1 Plan amendment must then be filed with the PUCO before money from the Wireless 9-1-1 Government Assistance Fund may be released to the county.

As of April 14, 2006, the plan amendment process has become simplified. The Board of County Commissioners can now call 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 no longer required to approve a plan amendment for this purpose.

The composition of the 9-1-1 Planning Committee is set forth in ORC Sec. 4931.42 (A). In counties with a population under 175,000 the committee is three members: The president of the board of county commissioners; the chief executive officer of the largest municipality in the county; and, based upon the larger population, either the chief executive of the second largest municipality or a member of the board of trustees as selected by them of the largest township. In counties with populations greater than 175,000 there are five members with the two additional members being: a member of a board of township trustees selected by a majority of the boards of township trustees within the county, and the chief executive of a municipal corporation selected by the majority of the legislative authorities of the municipal corporations within the county.

When considering the timing for the planning process it is important to consider three important points. First, a county does not lose its funding allocated to it unless it fails to complete its plan amendment process by December 31, 2008. This means that all monthly distributions allocated to the county will be held for and available to that county once it has submitted its amended final

9-1-1 plan to the PUCO. Second, funding for personnel costs are allowable beginning August 1, 2006, regardless of when the amended Final 9-1-1 Plan is submitted to the PUCO as long as all of the costs associated with the wireless enhanced 9-1-1 equipment and training of the staff covering the wireless 9-1-1 calls has been certified to the PUCO as having been paid. Third, the design and equipment for the 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 and must be considered by the planning committee during its development of the county's wireless enhanced 9-1-1 service. The Ohio 9-1-1 Council is currently developing the technical and operational standards and it is recommended that a county contact the PUCO's Ohio 9-1-1 Coordinator at the time the county is ready to move forward with adopting its wireless enhanced 9-1-1 plan.

Assessment and Collection of the Wireless 9-1-1 Charge

HB 361 imposes a monthly charge on 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 the act's effective date – May 6, 2005] and expiring on December 31, 2008. The amount imposed initially on each cell phone number is to be 32¢ per month. 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 (\$0.32/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. Since August, 2005, is the first month for which the charge is to be collected, the revenue received by the provider/reseller for the August billing cycle must be received by the PUCO not later than October 31, 2005. The provider/reseller may retain 2% of the total of the charges it collects in any month as a billing and collection fee. The charge revenue that is received from the providers/resellers is credited primarily to the Wireless 9-1-1 Government Assistance Fund.

Monthly Distributions from the Wireless 9-1-1 Government Assistance Fund

When can a County expect its first distribution from the Fund

A county will receive its first distribution check from the PUCO during the month immediately preceding the filing of its Amended Final 9-1-1 Plan with the PUCO. The amount of the first distribution will be the total of each month's distribution from November, 2006, [actually collected by the wireless phone companies during the month of August, 2006] that has accumulated up to that point.

Distribution Calculation Procedure

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, 2006, 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 but not later than November 30, 2006]. A disbursement must be made to each county for which a final 9-1-1 plan for wireless enhanced 9-1-1 has been adopted and it may

be used for paying costs which have been incurred prior to or after the May 6, 2005, effective date of HB 361.

The monthly distribution to each county is that county's proportionate share of the balance of the Wireless 9-1-1 Government Assistance Fund based on the ratio between the number of wireless telephone numbers assigned to wireless service subscribers that have billing addresses within the respective countywide 9-1-1 system and the total number of wireless telephone numbers assigned to subscribers that have billing addresses within the state. Note that this number is adjusted between counties when a subscriber has a billing address within a municipality that extends into an adjacent county. This ratio will be calculated initially for the August through December, 2005, period and then not later than January 25 for each succeeding calendar year of the funding program. Each county is guaranteed a minimum annual disbursement of \$25,000, if available in the Fund. The county's calculated amount is then certified to its county auditor.

HB 361 requires that all disbursements, with interest earned, for a county for which a final plan for countywide wireless enhanced 9-1-1 has not yet been adopted to be held in the Fund up through December, 2008. These funds will be released to that county upon that county's notification to the PUCO [Ohio 9-1-1 Coordinator] that its amended final 9-1-1 plan providing for wireless enhanced 9-1-1 service has been adopted. If a county has failed to adopt an amended final 9-1-1 plan by December 31, 2008, it loses the funds, including interest, which have been set aside for it and these funds are then distributed to each county operating under an amended final 9-1-1 plan based upon the current calendar year's distribution ratio to the counties.

As of April, 2006, eight counties [Ashtabula, Defiance, Huron, Lake, Mercer, Ross, Van Wert, Wayne] have filed their amended plans, received PUCO approval, and are receiving their funding from the Wireless 9-1-1 Government Assistance Fund.

Requirements Governing Use of Wireless 9-1-1 Government Assistance Funds

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 and 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. Appropriate purposes include:

Any costs of designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining the necessary data, hardware, software, and trunking required for PSAPs to provide Phase I ANI or Phase II ALI enhanced 9-1-1 services as described in FCC regulations.

Any costs of training staff of PSAPs to provide wireless enhanced 9-1-1 which are over and above costs incurred to provide wireline 9-1-1.

Beginning August 1, 2006, [one year following the imposition of the wireless 9-1-1 charge] HB 361 authorizes a county to use its Wireless 9-1-1 Government Assistance Fund disbursements to pay

personnel costs of one or more PSAPs providing countywide wireless enhanced 9-1-1. However, to be eligible to use a disbursement for personnel costs the county must certify to the PUCO [Ohio 9-1-1 Coordinator] that it has paid all of the costs associated with planning, bringing on-line and personnel training for a wireless enhanced 9-1-1 system identified by its amended final 9-1-1 plan and that the county is currently providing countywide wireless enhanced 9-1-1 service.

32 Cents Per Month Wireless 9-1-1 Charge Not Guaranteed

HB 361 requires PUCO to establish rules that will direct the Ohio 9-1-1 Coordinator in recommending to the General Assembly a fair and reasonable amount for the wireless 9-1-1 charge that should be levied during the FY2008/2009 biennium. This recommendation must be presented in a report to the General Assembly from the Ohio 9-1-1 Coordinator that must be submitted by November 1, 2006, and which is to contain the recommendation as to the amount of the charge for that biennium and the basis for the recommendation. The recommended amount must reflect the minimum amount necessary during the biennium to fully cover the PSAP costs projected for that biennium and the PUCO's program costs during that biennium. The Coordinator's report also must contain a review of the implementation and provision of wireless enhanced 9-1-1 in Ohio and a description of how moneys disbursed for wireless enhanced 9-1-1 have been used.

Wireless Enhanced 9-1-1 Service Program Management

Ohio 9-1-1 Coordinator

HB 361 establishes the 9-1-1 Service Program in the PUCO which 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 Chairperson may establish additional duties based on a list of duties recommended by the Ohio 9-1-1 Council created by HB 361 and also may assign one or more PUCO employees to assist the Ohio 9-1-1 Coordinator in carrying out duties under the act. The Coordinator is an unclassified civil service position and is appointed by and serves at the pleasure of the PUCO Chairperson who must consider nominees proposed by the Ohio 9-1-1 Council, but may request the Council to submit additional nominees and may reject any of the nominees.

To cover the PUCO's costs of administering the program it may retain up to 4% during the first full fiscal year of operation and 2% thereafter of the monthly revenue received from the charge as determined by the PUCO Chairperson. This revenue is credited to the Wireless 9-1-1 Administrative Fund. The revenue in this Fund is to be used for the PUCO's nonpayroll costs, the compensation and expenses of the Ohio 9-1-1 Coordinator who manages the program, the PUCO's auditing expenses regarding the Fund and the program, and may include the PUCO's payroll costs that are incurred in assisting the Coordinator in managing the program.

The PUCO is authorized to adopt rules in accordance with the Administrative Procedure Act (Chapter 119.) to implement and administer the provisions of HB 361.

As mentioned above, it is advisable for a county contact the PUCO's Ohio 9-1-1 Coordinator at the time the county is ready to move forward with adopting its wireless enhanced 9-1-1 plan.

Ohio 9-1-1 Council

HB 361 establishes the Ohio 9-1-1 Council, consisting of 11 members appointed to staggered three year terms as follows: the Ohio 9-1-1 Coordinator; a designee of the Department of Public Safety, selected by the Director of Public Safety; and nine members appointed by the Governor which must include: one representative of public safety communications officials in Ohio, one representative

of administrators of 9-1-1 service in Ohio, one representative of countywide 9-1-1 systems in Ohio [recommended by the CCAO], three representatives of wireline service providers in Ohio, and three representatives of wireless service providers in Ohio.

The Council is to: arbitrate and establish 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 but can not prescribe the technology that a telephone company or reseller must use to deliver 9-1-1 calls; 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; submit names of nominees, recommended duties for, and review the performance of the Ohio 9-1-1 Coordinator; and offer advise regarding the appropriate amount for the wireless 9-1-1 service charge that should be levied during the FY2008/2009 biennium.

Wireless 9-1-1 Advisory Board

The Wireless 9-1-1 Advisory Board is created and consists of 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: 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; one noncouncil representative of wireless service providers; one noncouncil representative of public safety communications officials; and two noncouncil representatives of municipal and county governments.

The primary function of the 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 carry out the provisions of HB 361.

CCAO wishes to thank Shawn Smith, Interim Ohio 911 Coordinator at the PUCO, and Bill Hinkle, Director of Communications for the Hamilton County Department of Communications, for their review of this CAB.