

HEALTH AND SAFETY CODE CHAPTER 771. STATE ADMINISTRATION OF
EMERGENCY COMMUNICATIONS

HEALTH AND SAFETY CODE

TITLE 9. SAFETY

SUBTITLE B. EMERGENCIES

CHAPTER 771. STATE ADMINISTRATION OF EMERGENCY COMMUNICATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 771.001. DEFINITIONS. In this chapter:

(1) "Commission " means the Commission on State
Emergency Communications.

(2) "Business service user" means a user of business
service that provides telecommunications service, including 9-1-1
service, to end users through a publicly or privately owned
telephone switch.

(3) "Emergency communication district" means:

(A) a public agency or group of public agencies
acting jointly that provided 9-1-1 service before September 1,
1987, or that had voted or contracted before that date to provide
that service; or

(B) a district created under Subchapter B, C, D,
or F, Chapter 772.

(4) "Intrastate long distance service provider" means
a telecommunications carrier providing intrastate long distance
service, as defined by the commission.

(5) "Local exchange service provider" means a
telecommunications carrier providing telecommunications service in
a local exchange service area under a certificate of public
convenience and necessity issued by the Public Utility Commission
of Texas.

(6) "9-1-1 service" means a telecommunications
service that provides the user of the public telephone system the
ability to reach a public safety answering point by dialing the
digits 9-1-1.

(7) "Public agency" means the state, a municipality, a
county, an emergency communication district, a regional planning

commission, an appraisal district, or any other political subdivision or district that provides, participates in the provision of, or has authority to provide fire-fighting, law enforcement, ambulance, medical, 9-1-1, or other emergency services.

(8) "Public safety agency" means the division of a public agency that provides fire-fighting, police, medical, or other emergency services, or a private entity that provides emergency medical or ambulance services.

(9) "Public safety answering point" means a continuously operated communications facility that is assigned the responsibility to receive 9-1-1 calls and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 9-1-1 calls to appropriate public safety agencies.

(10) "Regional planning commission" means a planning commission established under Chapter 391, Local Government Code.

(11) "Business service" means a telecommunications service classified as a business service under rules adopted by the Public Utility Commission of Texas or under the applicable tariffs of the principal service supplier.

(12) "Wireless service provider" means a provider of commercial mobile service under Section 332(d), Federal Telecommunications Act of 1996 (47 U.S.C. Section 151 et seq.), Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993 (Pub. L. No. 103-66), and includes a provider of wireless two-way communication service, radio-telephone communications related to cellular telephone service, network radio access lines or the equivalent, and personal communication service. The term does not include a provider of:

(A) a service whose users do not have access to 9-1-1 service;

(B) a communication channel used only for data transmission;

(C) a wireless roaming service or other nonlocal radio access line service; or

(D) a private telecommunications service.

(13) "Wireless telecommunications connection" means

any wireless communication mobile station assigned a number containing an area code assigned to Texas by the North American Numbering Plan Administrator that connects a wireless service provider to the local exchange service provider.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 735, Sec. 1, eff. June 16, 1993; Acts 1993, 73rd Leg., ch. 936, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 638, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1246, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1405, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1406, Sec. 1, eff. Aug. 30, 1999.

SUBCHAPTER B. COMMISSION ON STATE EMERGENCY COMMUNICATIONS

Sec. 771.031. COMPOSITION OF COMMISSION. (a) The Commission on State Emergency Communications is composed of nine appointed members and three ex officio members as provided by this section.

(b) The following individuals serve as nonvoting ex officio members:

(1) the executive director of the Public Utility Commission of Texas, or an individual designated by the executive director;

(2) the executive director of the Department of Information Resources, or an individual designated by the executive director; and

(3) the executive commissioner of the Health and Human Services Commission, or an individual designated by the executive commissioner.

(c) The lieutenant governor and the speaker of the house of representatives each shall appoint two members as representatives of the general public.

(d) The governor shall appoint:

(1) one member who serves on the governing body of a regional planning commission;

(2) one member who serves as a director of or is on the governing body of an emergency communication district;

(3) one member who serves on the governing body of a county;

(4) one member who serves on the governing body of a home-rule municipality that operates a 9-1-1 system that is independent of the state's system; and

(5) one member as a representative of the general public.

(e) Appointed members of the commission serve staggered terms of six years, with the terms of one-third of the members expiring September 1 of each odd-numbered year.

(f) A vacancy in an appointed position on the commission shall be filled in the same manner as the position of the member whose departure created the vacancy.

(g) The governor shall designate an appointed member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 638, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1405, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 2.06, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 347, Sec. 1, eff. September 1, 2009.

Sec. 771.0315. ELIGIBILITY FOR MEMBERSHIP OR TO BE GENERAL COUNSEL. (a) A person is not eligible for appointment under Section 771.031 to represent the general public if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of telecommunications;

(2) is employed by or participates in the management of a business entity or other organization receiving money from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving money from the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the commission other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(b) In this subsection, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of telecommunications or emergency communications;

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of telecommunications or emergency communications;

(3) the person is an officer, employee, or paid consultant of a Texas association of regional councils; or

(4) the person's spouse is an officer, manager, or paid consultant of a Texas association of regional councils.

(c) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(d) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1999, 76th Leg., ch. 1405, Sec. 4, eff. Sept. 1, 1999.

Sec. 771.0316. GROUNDS FOR REMOVAL OF COMMISSION MEMBER.

(a) It is a ground for removal from the commission that a member:

(1) does not have at the time of taking office the qualifications required by Section 771.031;

(2) does not maintain during service the qualifications required by Section 771.031;

(3) is ineligible for membership under Section 771.031 or 771.0315;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1999, 76th Leg., ch. 1405, Sec. 4, eff. Sept. 1, 1999.

Sec. 771.032. APPLICATION OF SUNSET ACT. The Commission on State Emergency Communications is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011.

Added by Acts 1995, 74th Leg., ch. 970, Sec. 2.01, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 5, eff. Sept. 1, 1999.

Sec. 771.033. MEETINGS. The commission shall meet in

Austin and at other places fixed by the commission at the call of the presiding officer.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 6, eff. Sept. 1, 1999.

Sec. 771.034. EXPENSES. The expenses of a member of the commission shall be paid as provided by the General Appropriations Act.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 7, eff. Sept. 1, 1999.

Sec. 771.035. STAFF; PERSONNEL POLICIES. (a) The commission may employ persons as necessary to carry out its functions.

(b) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(c) The policy statement must include:

(1) personnel policies, including policies related to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(d) The policy statement must be:

(1) updated annually;

(2) reviewed by the state Commission on Human Rights for compliance with Subsection (c)(1); and

(3) filed with the governor's office.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 8, eff. Sept. 1, 1999.

Sec. 771.036. STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the commission and to employees of the commission, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1999, 76th Leg., ch. 1405, Sec. 9, eff. Sept. 1, 1999.

Sec. 771.037. COMMISSION MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the commission;
- (2) the programs operated by the commission;
- (3) the role and functions of the commission;
- (4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget of the commission;
- (6) the results of the most recent formal audit of the commission;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict of interest laws; and
- (8) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for

the travel expenses incurred in attending the training program, regardless of whether the attendance of the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 1405, Sec. 10, eff. Sept. 1, 1999.

Sec. 771.038. PUBLIC COMMENTS. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 1999, 76th Leg., ch. 1405, Sec. 11, eff. Sept. 1, 1999.

Sec. 771.039. COMPLAINTS. (a) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the commission;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) The commission, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 1999, 76th Leg., ch. 1405, Sec. 12, eff. Sept. 1,

SUBCHAPTER C. ADMINISTRATION OF STATE EMERGENCY COMMUNICATIONS

Sec. 771.051. POWERS AND DUTIES OF COMMISSION. (a) The commission is the state's authority on emergency communications. The commission shall:

(1) administer the implementation of statewide 9-1-1 service and the poison control network, including poison control centers under Chapter 777;

(2) develop minimum performance standards for equipment and operation of 9-1-1 service to be followed in developing regional plans under Section 771.055, including requirements that the plans provide for:

(A) automatic number identification by which the telephone number of the caller is automatically identified at the public safety answering point receiving the call; and

(B) other features the commission considers appropriate;

(3) examine and approve or disapprove regional plans as provided by Section 771.056;

(4) recommend minimum training standards, assist in training, and provide assistance in the establishment and operation of 9-1-1 service;

(5) allocate money to prepare and operate regional plans as provided by Section 771.056;

(6) develop and provide public education materials and training;

(7) plan, implement, operate, and maintain poison control center databases and assist in planning, supporting, and facilitating 9-1-1 databases, as needed;

(8) provide grants or contracts for services that enhance the effectiveness of 9-1-1 service;

(9) coordinate emergency communications services and providers;

(10) make reasonable efforts to gain voluntary cooperation in the commission's activities of emergency

communications authorities and providers outside the commission's jurisdiction, including:

(A) making joint communications to state and federal regulators; and

(B) arranging cooperative purchases of equipment or services; and

(11) accept, receive, and deposit in its account in the general revenue fund gifts, grants, and royalties from public and private entities. Gifts, grants, and royalties may be used for the purposes of the commission.

(b) The commission shall comply with state laws requiring state agencies, boards, or commissions generally to submit appropriations requests to the Legislative Budget Board and the governor and to develop a strategic plan for operations.

(c) The commission may obtain a commercial license or sublicense to sell 9-1-1 or poison control public education and training materials in this state or in other states. The commission may use all profits from sales for purposes of the commission.

(d) The commission shall develop and implement policies that clearly separate the policy making responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 36, Sec. 1.05, eff. April 19, 1993; Acts 1995, 74th Leg., ch. 638, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1377, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1405, Sec. 13, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 347, Sec. 2, eff. September 1, 2009.

Sec. 771.052. AGENCY COOPERATION. Each public agency and regional planning commission shall cooperate with the commission to the fullest extent possible.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 14, eff. Sept. 1, 1999.

Sec. 771.053. LIABILITY OF SERVICE PROVIDERS AND CERTAIN PUBLIC OFFICERS. (a) A service provider of telecommunications service involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, or an officer or employee of a service provider involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(b) A member of the commission or of the governing body of a public agency is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 936, Sec. 2, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1405, Sec. 15, eff. Sept. 1, 1999.

Sec. 771.054. EFFECT OF CHAPTER ON EMERGENCY COMMUNICATION DISTRICTS. Except as expressly provided by this chapter, this chapter does not affect the existence or operation of an emergency communication district or prevent the addition of territory to the area served by an emergency communication district as provided by law.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 771.055. STRATEGIC PLANNING. (a) Each regional planning commission shall develop a regional plan for the establishment and operation of 9-1-1 service throughout the region that the regional planning commission serves. The 9-1-1 service must meet the standards established by the commission.

(b) A regional plan must describe how the 9-1-1 service is to be administered. The 9-1-1 service may be administered by an emergency communication district, municipality, or county, by a combination formed by interlocal contract, or by other appropriate means as determined by the regional planning commission. In a region in which one or more emergency communication districts

exist, a preference shall be given to administration by those districts and expansion of the area served by those districts.

(c) A regional plan must be updated at least once every state fiscal biennium and must include:

(1) a description of how money allocated to the region under this chapter is to be allocated in the region;

(2) projected financial operating information for the two state fiscal years following the submission of the plan; and

(3) strategic planning information for the five state fiscal years following submission of the plan.

(d) In a region in which one or more emergency communication districts exist, if a district chooses to participate in the regional plan, the district shall assist in the development of the regional plan.

(e) For each state fiscal biennium, the commission shall prepare a strategic plan for statewide 9-1-1 service for the following five state fiscal years using information from the strategic information contained in the regional plans and provided by emergency communication districts and home-rule municipalities that operate 9-1-1 systems independent of the state system. The commission shall present the strategic plan to the governor and the Legislative Budget Board, together with the commission's legislative appropriations request. The strategic plan must:

(1) include a survey of the current performance, efficiency, and degree of implementation of emergency communications services throughout the whole state;

(2) provide an assessment of the progress made toward meeting the goals and objectives of the previous strategic plan and a summary of the total expenditures for emergency communications services in this state;

(3) provide a strategic direction for emergency communications services in this state;

(4) establish goals and objectives relating to emergency communications in this state;

(5) provide long-range policy guidelines for emergency communications in this state;

(6) identify major issues relating to improving

emergency communications in this state;

(7) identify priorities for this state's emergency communications system; and

(8) detail the financial performance of each regional planning commission in implementing emergency communications service including an accounting of administrative expenses.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 16, eff. Sept. 1, 1999.

Sec. 771.056. SUBMISSION OF REGIONAL PLAN TO COMMISSION.

(a) The regional planning commission shall submit a regional plan, or an amendment to the plan, to the commission for approval or disapproval.

(b) In making its determination, the commission shall consider whether the plan or amendment satisfies the standards established by the commission under this chapter, the cost and effectiveness of the plan or amendment, and the appropriateness of the plan or amendment in the establishment of statewide 9-1-1 service.

(c) The commission shall notify a regional planning commission of the approval or disapproval of the plan or amendment not later than the 90th day after the date the commission receives an administratively complete plan or amendment. If the commission disapproves the plan, it shall specify the reasons for disapproval and set a deadline for submission of a modified plan.

(d) If the commission approves the plan, it shall allocate to the region from the money collected under Sections 771.071, 771.0711, and 771.072 and appropriated to the commission the amount that the commission considers appropriate to operate 9-1-1 service in the region according to the plan and contracts executed under Section 771.078.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 17, eff. Sept. 1, 1999.

Sec. 771.057. AMENDMENT OF PLAN. A regional plan may be amended according to the procedure determined by the commission.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended

by Acts 1999, 76th Leg., ch. 1405, Sec. 18, eff. Sept. 1, 1999.

Sec. 771.058. OPTIONAL PARTICIPATION IN PLAN. (a) In a county with a population of 120,000 or less, the county or another public agency, other than the state, located in the county is not required to participate in the regional plan applicable to the regional planning commission in which it is located, and the fee imposed under this chapter may not be charged to a customer in the county or territory of the public agency other than the county, unless the county or other public agency chooses to participate in the plan by resolution of its governing body.

(b) On approval by the commission, an emergency communication district may choose to participate in the regional plan applicable to the regional planning commission region in which the district is located. An emergency communication district described by Section 771.001(3)(A) may choose to participate in the regional plan by resolution of its governing body or by adoption of an ordinance. An emergency communication district described by Section 771.001(3)(B) may choose to participate in the regional plan by order of the district's board after a public hearing held in the manner required for a public hearing on the continuation of the district under the law governing the district. Following the adoption of the resolution, ordinance, or order and approval by the commission, the regional planning commission shall amend the regional plan to take into account the participation of the emergency communication district.

(c) Participation in the regional plan by an emergency communication district does not affect the organization or operation of the district, except that the district may not collect an emergency communication fee or other special fee for 9-1-1 service not permitted by this chapter. Participation by the district in the plan does not affect the district's authority to set its own fees in the territory under its jurisdiction on January 1, 1988. Participation in the regional plan by a public agency or group of public agencies operating as an emergency communication district as provided by Subsection (d) does not affect the authority of the public agency or group of public agencies to set

its own fees in territory:

(1) under its jurisdiction at the time of recognition;

or

(2) added to the district after the recognition.

(d) In a county with a population of 120,000 or less, a public agency or group of public agencies acting jointly that contracted with a service provider before September 1, 1987, to provide 9-1-1 service by resolution of its governing body may withdraw from a regional plan in which it chooses to participate. A public agency or group of public agencies that withdraws from a regional plan under this subsection shall be recognized and operate as an emergency communication district in the agency's or group's geographic jurisdiction. As an emergency communication district, the public agency or group of agencies:

(1) is governed by Subchapter D, Chapter 772; and

(2) may collect all fees authorized by that subchapter or other applicable law.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 670, Sec. 2, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1405, Sec. 19, eff. Sept. 1, 1999.

Sec. 771.059. DEADLINE FOR STATEWIDE 9-1-1 SERVICE. Before September 1, 1995, all parts of the state must be covered by 9-1-1 service.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 771.060. BUSINESS PROVIDING RESIDENTIAL TELEPHONE SWITCHES. A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall provide to those residential end users the same level of 9-1-1 service that a service supplier is providing to other residential end users in the area participating in the regional plan under Section 771.051(2). Added by Acts 1993, 73rd Leg., ch. 936, Sec. 3, eff. Aug. 30, 1993.

Sec. 771.061. CONFIDENTIALITY OF INFORMATION.

(a) Information that a service provider of telecommunications

service is required to furnish to a governmental entity in providing computerized 9-1-1 service is confidential and is not available for public inspection. Information that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service is confidential and is not available for public inspection. The service provider or third party is not liable to any person who uses a computerized 9-1-1 service for the release of information furnished by the service provider or third party in providing computerized 9-1-1 service, unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(b) Information that a service provider of telecommunications service furnishes to the commission or an emergency communication district to verify or audit emergency service fees or surcharge remittances and that includes access line or market share information of an individual service provider is confidential and not available for public inspection.

Added by Acts 1997, 75th Leg., ch. 1377, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 20, eff. Sept. 1, 1999.

Sec. 771.062. LOCAL ADOPTION OF STATE RULE. (a) An emergency communication district may adopt any provision of this chapter or any commission rule. The commission may enforce a provision or rule adopted by an emergency communication district under this section.

(b) The commission shall maintain and update at least annually a list of provisions or rules that have been adopted by emergency communication districts under this section.

(c) An emergency communication district or home-rule municipality that operates a 9-1-1 system independent of the state system may voluntarily submit strategic planning information to the commission for use in preparing the strategic plan for statewide 9-1-1 service. This information as determined by the commission, if reported, may:

(1) include a survey of the current performance,

efficiency, and degree of implementation of emergency communications services;

(2) detail the progress made toward meeting the goals and objectives of the previous strategic plan;

(3) describe the strategic direction, goals, and objectives for emergency communications services;

(4) identify major issues, long-range policy guidelines, and priorities relating to improving emergency communications services; and

(5) detail the financial performance of each district in implementing emergency communications services.

(d) The commission shall establish reasonable guidelines for use by districts and home-rule municipalities in preparing information for the strategic plan for statewide 9-1-1 services. These guidelines shall include the time frames of information and instructions for submission.

Added by Acts 1997, 75th Leg., ch. 1377, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 21, eff. Sept. 1, 1999.

Sec. 771.063. DEFINITION OF LOCAL EXCHANGE ACCESS LINE AND EQUIVALENT LOCAL EXCHANGE ACCESS LINE. (a) The advisory commission shall determine by rulemaking what constitutes a local exchange access line and an equivalent local exchange access line for all 9-1-1 emergency services fees imposed statewide.

(b) By October 1, 1999, the advisory commission shall adopt definitions of a local exchange access line and an equivalent local exchange access line that exclude a line from a telecommunications service provider to an Internet service provider for the Internet service provider's data modem lines used only to provide its Internet access service and that are not capable of transmitting voice messages.

(c) The advisory commission shall annually review the definitions of a local exchange access line and an equivalent local exchange access line to address technical and structural changes in the provision of telecommunications and data services. In that annual review, the advisory commission may include previously

excluded Internet service provider data modem lines if it determines that circumstances have changed sufficiently enough that 9-1-1 emergency calls through those lines are done on a regular basis or that the data lines are voice-capable or that the lines are functionally equivalent.

(d) An emergency communication district described by Section 771.001(3)(A) or (B) that has not participated in a regional plan shall use the advisory commission's definitions of a local exchange access line and an equivalent local exchange access line for purposes of imposing its emergency service fees and may not impose an emergency service fee on any line excluded from the advisory commission's definitions.

(e) A service provider shall collect and remit the emergency service fees to the advisory commission or the appropriate emergency communication district, as applicable, in accordance with the advisory commission's definition of a local exchange access line and an equivalent local exchange access line.

Added by Acts 1999, 76th Leg., ch. 1203, Sec. 1, eff. June 18, 1999.

SUBCHAPTER D. FINANCING STATE EMERGENCY COMMUNICATIONS

Sec. 771.071. EMERGENCY SERVICE FEE. (a) Except as otherwise provided by this subchapter, the commission may impose a 9-1-1 emergency service fee on each local exchange access line or equivalent local exchange access line, including lines of customers in an area served by an emergency communication district participating in the applicable regional plan. If a business service user provides residential facilities, each line that terminates at a residential unit, and that is a communication link equivalent to a residential local exchange access line, shall be charged the 9-1-1 emergency service fee. The fee may not be imposed on a line to coin-operated public telephone equipment or to public telephone equipment operated by coin or by card reader. The fee may also not be imposed on any line that the commission excluded from the definition of a local exchange access line or an equivalent local exchange access line pursuant to Section 771.063.

(b) The amount of the fee may not exceed 50 cents a month for

each line.

(c) The commission may set the fee in a different amount in each regional planning commission region based on the cost of providing 9-1-1 service to each region.

(d) The fee does not apply to an emergency communication district not participating in the applicable regional plan. A customer in an area served by an emergency communication district not participating in the regional plan may not be charged a fee under this section. Money collected under this section may not be allocated to an emergency communication district not participating in the applicable regional plan.

(e) A local exchange service provider shall collect the fees imposed on its customers under this section. Not later than the 30th day after the last day of the month in which the fees are collected, the local exchange service provider shall deliver the fees to the comptroller. The comptroller shall deposit money from the fees to the credit of the 9-1-1 services fee account in the general revenue fund. The comptroller may establish alternative dates for payment of fees under this section, provided that the required payment date be no earlier than the 30th day after the last day of the reporting period in which the fees are collected.

(f) The commission shall distribute money appropriated to the commission from the 9-1-1 services fee fund to regional planning commissions for use in providing 9-1-1 services as provided by contracts executed under Section 771.078. The regional planning commissions shall distribute the money to public agencies for use in providing those services.

(g) Repealed by Acts 1999, 76th Leg., ch. 1045, Sec. 18, eff. June 18, 1999.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 936, Sec. 4, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 1157, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1045, Sec. 18, eff. June 18, 1999, Acts 1999, 76th Leg., ch. 1203, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1405, Sec. 22, eff. Sept; 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 80, eff. Jan. 1, 2002.

Sec. 771.0711. EMERGENCY SERVICE FEE FOR WIRELESS TELECOMMUNICATIONS CONNECTIONS. (a) To provide for automatic number identification and automatic location identification of wireless 9-1-1 calls, the commission shall impose on each wireless telecommunications connection a 9-1-1 emergency service fee. A political subdivision may not impose another fee on a wireless service provider or subscriber for 9-1-1 emergency service.

(b) A wireless service provider shall collect the fee in an amount equal to 50 cents a month for each wireless telecommunications connection from its subscribers and shall pay the money collected to the comptroller not later than the 30th day after the last day of the month during which the fees were collected. The comptroller may establish alternative dates for payment of fees under this section. The wireless service provider may retain an administrative fee of one percent of the amount collected. The comptroller shall deposit the money from the fees to the credit of the 9-1-1 services fee account. Until deposited to the credit of the 9-1-1 services fee account as required by Subsection (c), money the comptroller collects under this subsection remains in a trust fund with the state treasury.

(c) Money collected under Subsection (b) may be used only for services related to 9-1-1 services, including automatic number identification and automatic location information services. Not later than the 15th day after the end of the month in which the money is collected, the commission shall distribute to each emergency communication district that does not participate in the state system a portion of the money that bears the same proportion to the total amount collected that the population of the area served by the district bears to the population of the state. The remaining money collected under Subsection (b) shall be deposited to the 9-1-1 services fee account.

(d) A service provider of telecommunications service involved in providing wireless 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of wireless 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(e) A member of the commission, the governing body of a public agency, or the Department of Information Resources is not liable for any claim, damage, or loss arising from the provision of wireless 9-1-1 service unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action.

(f) A wireless service provider is not required to take legal action to enforce the collection of any wireless 9-1-1 service fee. The comptroller may establish collection procedures and recover the cost of collection from the subscriber liable for the fee. The comptroller may institute legal proceedings to collect a fee and in those proceedings is entitled to recover from the subscriber court costs, attorney's fees, and interest on the amount delinquent.

(g) On receipt of an invoice from a wireless service provider for reasonable expenses for network facilities, including equipment, installation, maintenance, and associated implementation costs, the commission or an emergency services district of a home-rule municipality or an emergency communication district created under Chapter 772 shall reimburse the wireless service provider in accordance with state law for all expenses related to 9-1-1 service.

(h) Information that a wireless service provider is required to furnish to a governmental entity in providing 9-1-1 service is confidential and exempt from disclosure under Chapter 552, Government Code. The wireless service provider is not liable to any person who uses a 9-1-1 service created under this subchapter for the release of information furnished by the wireless service provider in providing 9-1-1 service. Information that is confidential under this section may be released only for budgetary calculation purposes and only in aggregate form so that no provider-specific information may be extrapolated.

(i) Nothing in this section may be construed to apply to wireline 9-1-1 service.

(j) Nothing in this section precludes funds collected under Section 771.072 (Equalization Surcharge) from being used to cover costs under Subsection (g), as necessary and appropriate, including

for rural areas that may need additional funds for wireless 9-1-1.
Added by Acts 1997, 75th Leg., ch. 1246, Sec. 2, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 23, eff. Sept. 1,
1999; Acts 2001, 77th Leg., ch. 1158, Sec. 81, eff. Jan. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 2.07, eff.
September 1, 2007.

Sec. 771.0712. PREPAID 9-1-1 EMERGENCY SERVICE FEE.

(a) To ensure that all 9-1-1 agencies under Section 418.051, Government Code, are adequately funded, beginning on June 1, 2010, a prepaid wireless 9-1-1 emergency services fee of two percent of the purchase price of each prepaid wireless telecommunications service purchased by any method, shall be collected by the seller from the consumer at the time of each retail transaction of prepaid wireless telecommunications service occurring in this state and remitted to the comptroller consistent with Chapter 151, Tax Code, and distributed consistent with the procedures in place for the emergency services fee in Section 771.0711, Health and Safety Code. A seller may deduct and retain two percent of prepaid wireless 9-1-1 emergency services fees that it collects under this section to offset its costs in administering this fee.

(b) The comptroller shall adopt rules to implement this section by June 1, 2010.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280, Sec. 3.03a, eff. September 1, 2009.

Sec. 771.072. EQUALIZATION SURCHARGE. (a) In addition to the fee imposed under Section 771.071, the commission shall impose a 9-1-1 equalization surcharge on each customer receiving intrastate long-distance service, including customers in an area served by an emergency communication district, even if the district is not participating in the regional plan.

(b) The amount of the surcharge may not exceed one and three-tenths of one percent of the charges for intrastate long-distance service, as defined by the commission.

(c) Except as provided by Section 771.073(f), an intrastate

long-distance service provider shall collect the surcharge imposed on its customers under this section and shall deliver the surcharges to the comptroller not later than the date specified by the comptroller, provided that the required payment date be no earlier than the 30th day after the last day of the reporting period in which the surcharge is collected. If the comptroller does not specify a date, the provider shall deliver the surcharges to the comptroller not later than the 30th day after the last day of the month in which the surcharges are collected.

(d) From the revenue received from the surcharge imposed under this section, the amount derived from the application of the surcharge at a rate of not more than .5 percent shall be allocated to regional planning commissions or other public agencies designated by the regional planning commissions for use in carrying out the regional plans provided for by this chapter. The allocations to the regional planning commissions are not required to be equal, but should be made to carry out the policy of this chapter to implement 9-1-1 service statewide. Money collected under this section may be allocated to an emergency communication district regardless of whether the district is participating in the applicable regional plan.

(e) From the revenue received from the surcharge imposed by this section, the amount derived from the application of the surcharge at a rate of not more than .8 percent shall be periodically allocated to fund grants awarded under Section 777.009 and other activities related to the poison control centers as required by Chapter 777.

(f) The comptroller shall deposit the surcharges and any prior balances in accounts in the general revenue fund in the state treasury until they are allocated to regional planning commissions, other 9-1-1 jurisdictions, and regional poison control centers in accordance with this section. From those accounts, the amount necessary for the commission to fund approved plans of regional planning commissions and regional poison control centers and to carry out its duties under this chapter shall be appropriated to the commission. Section 403.095, Government Code, does not apply to an account established by this subsection.

(g) Notwithstanding any other law, revenue derived from the equalization surcharge imposed under this section may be appropriated to the commission only for the purposes described by Sections 773.122 through 773.124.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 36, Sec. 1.06, eff. Aug. 31, 1994; Acts 1993, 73rd Leg., ch. 670, Sec. 3, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 638, Sec. 4, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1045, Sec. 15, eff. June 18, 1999, Acts 1999, 76th Leg., ch. 1405, Sec. 24, eff. Sept; 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 82, eff. Jan. 1, 2002.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 347, Sec. 3, eff. September 1, 2009.

Sec. 771.0725. ESTABLISHMENT OF RATES FOR FEES.

(a) Subject to the applicable limitations prescribed by Sections 771.071(b) and 771.072(b), (d), and (e), the Public Utility Commission of Texas shall monitor the establishment of:

(1) emergency service fees imposed under Section 771.071; and

(2) the equalization surcharge imposed under Section 771.072, including the allocation of revenue under Sections 771.072(d) and (e).

(b) Each year the commission shall provide documentation to the Public Utility Commission of Texas regarding the rate at which each fee should be imposed and the allocation of revenue under Sections 771.072(d) and (e). The commission may provide such documentation more often under this subsection if the commission determines that action is necessary.

(c) The Public Utility Commission of Texas shall review the documentation provided by the commission as well as allocations derived therefrom and also identified by the commission. If the Public Utility Commission of Texas determines that a recommended rate or allocation is not appropriate, the Public Utility Commission of Texas shall provide comments to the commission, the governor, and the Legislative Budget Board regarding appropriate

rates and the basis for that determination.

(d) The Public Utility Commission of Texas may review and make comments regarding a rate or allocation under this section in an informal proceeding. A proceeding in which a rate or allocation is reviewed is not a contested case for purposes of Chapter 2001, Government Code. A review of a rate or allocation is not a rate change for purposes of Chapter 36 or 53, Utilities Code.

Added by Acts 1997, 75th Leg., ch. 1241, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.33, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1405, Sec. 25, eff. Sept. 1, 1999.

Sec. 771.073. COLLECTION OF FEES AND SURCHARGES. (a) A customer on which a fee or surcharge is imposed under this subchapter is liable for the fee or surcharge in the same manner as the customer is liable for the charges for services provided by the service provider. The service provider shall collect the fees and surcharges in the same manner it collects those charges for service, except that the service provider is not required to take legal action to enforce the collection of the fees or surcharges. A fee or surcharge must be stated separately on the customer's bill.

(b) A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall collect the 9-1-1 emergency service fee and transmit the fees monthly to the comptroller. A business service user that does not collect and remit the 9-1-1 emergency service fee as required is subject to a civil cause of action. A court may award to the comptroller court costs, attorney's fees, and interest on the amount delinquent, to be paid by the nonpaying business service user. A certificate of the comptroller specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees.

(c) The comptroller may establish collection procedures and recover the cost of collection from the customer liable for the fee or surcharge. The comptroller may institute legal proceedings to collect a fee or surcharge and in those proceedings is entitled to recover from the customer court costs, attorney's fees, and an

interest on the amount delinquent.

(d) A service provider may not disconnect services for nonpayment of a fee or surcharge imposed under this subchapter.

(e) A service provider collecting fees or surcharges under this subchapter may retain as an administrative fee an amount equal to one percent of the total amount collected.

(f) The commission may establish payment schedules and minimum payment thresholds for fees and surcharges imposed under this subchapter.

(g) A 9-1-1 service provider is responsible for correctly billing and remitting applicable 9-1-1 fees, charges, and equalization surcharges. Any 9-1-1 fees, charges, or equalization surcharges erroneously billed to a subscriber by a 9-1-1 service provider and erroneously remitted to the commission or an emergency communication district may not be recovered from the commission or emergency communication district unless the fees or charges were adjusted due to a refund to the subscriber by the local exchange carrier or interexchange carrier.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 936, Sec. 5, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 638, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1377, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1405, Sec. 26, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 83, eff. Jan. 1, 2002.

Sec. 771.0735. SOURCING OF CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES. The federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sections 116-126) governs the sourcing of charges for mobile telecommunications services. In accordance with that Act:

(1) mobile telecommunications services provided in a taxing jurisdiction to a customer, the charges for which are billed by or for the customer's home service provider, shall be deemed to be provided by the customer's home service provider;

(2) all charges for mobile telecommunications services that are deemed to be provided by the customer's home service provider in accordance with the Act are authorized to be

subjected to tax, charge, or fee by the taxing jurisdictions whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunications services originate, terminate, or pass through, and no other taxing jurisdiction may impose taxes, charges, or fees on charges for such mobile telecommunications services; and

(3) the fee imposed on wireless telecommunications bills shall be administered in accordance with Section 151.061, Tax Code.

Added by Acts 2001, 77th Leg., ch. 370, Sec. 4, eff. Aug. 1, 2002.

Sec. 771.074. EXEMPTION. A fee or surcharge authorized by this subchapter, Chapter 772, or a home-rule municipality may not be imposed on or collected from the state or the federal government. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1377, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 84, eff. Jan. 1, 2002.

Sec. 771.075. USE OF REVENUE. Except as provided by Section 771.0751, 771.072(e), 771.072(f), or 771.073(e), fees and surcharges collected under this subchapter may be used only for planning, development, provision, and enhancement of the effectiveness of 9-1-1 service as approved by the commission. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 670, Sec. 4, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 936, Sec. 6, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 638, Sec. 6, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1405, Sec. 27, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 258, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1324, Sec. 1, eff. June 20, 2003.

Sec. 771.0751. USE OF REVENUE IN CERTAIN COUNTIES.

Text of subsec. (a) added by Acts 2003, 78th Leg., ch. 258, Sec. 2

(a) This section applies only to the use of fees and surcharges collected under this subchapter in a county subject to

this subchapter with a population of at least 700,000.

Text of subsec. (a) added by Acts 2003, 78th Leg., ch. 1324, Sec. 2

(a) This section applies only to the use of fees and surcharges collected under this subchapter in the county that has the highest population within a region subject to this subchapter.

(b) In addition to use authorized or required by Section 771.072(e) or (f), 771.073(e), or 771.075, fees and surcharges collected under this subchapter may be used for any costs considered necessary by the commission and attributable to:

(1) designing a 9-1-1 system; or

(2) obtaining and maintaining equipment and personnel necessary to establish and operate:

(A) a public safety answering point and related operations; or

(B) other related answering points and operations.

Added by Acts 2003, 78th Leg., ch. 258, Sec. 2, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1324, Sec. 2, eff. June 20, 2003.

Sec. 771.076. AUDITS. (a) The commission or an employee of the commission may notify the comptroller of any irregularity that may indicate that an audit of a service provider collecting a fee or surcharge under this subchapter is warranted. The comptroller also may audit a service provider at the comptroller's discretion, without first receiving a notification from the commission or an employee of the commission. The cost of the audit shall not be assessed against the service provider. The commission may require at its own expense that an audit be conducted of a public agency receiving money under this chapter.

(b) If the comptroller conducts an audit of a service provider that collects and disburses fees or surcharges under this subchapter, the comptroller shall also audit those collections and disbursements to determine if the provider is complying with this chapter.

(c) At the request of the Public Utility Commission of

Texas, the state auditor may audit a regional planning commission or other public agency designated by the regional planning commission that receives money under this subchapter.

(d) The audit of a public agency under Subsection (a) or (c) must be limited to the collection, remittance, and expenditure of money collected under this subchapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1241, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1405, Sec. 28, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 85, eff. Jan. 1, 2002.

Sec. 771.077. COLLECTION OF FEES AND SURCHARGES. (a) The comptroller may establish collection procedures to collect past due amounts and may recover the costs of collection from a service provider or business service user that fails to timely deliver the fees and the equalization surcharge to the comptroller. Subtitles A and B, Title 2, Tax Code, apply to the administration and collection of amounts by the comptroller under this subchapter.

(b) The comptroller may establish procedures to be used by the commission to notify the comptroller of a service provider's or business service user's failure to timely deliver the fees or surcharges.

(c) The comptroller shall deposit amounts received as costs of collection in the general revenue fund.

(d) The comptroller shall:

(1) remit to the commission money collected under this section for fees provided by Section 771.0711 and associated late penalties;

(2) deposit to the 9-1-1 services fee account any money collected under this section for fees provided by Section 771.071 and associated late penalties; and

(3) deposit to the account as authorized by Section 771.072 any money collected under this section for fees provided by Section 771.072 and associated late penalties.

(e) The commission shall:

(1) deposit or distribute the money remitted under Subsection (d)(1) as Section 771.0711 provides for fees received

under that section; and

(2) distribute the money remitted under Subsection (d)(2) and appropriated to the commission under contracts as provided by Section 771.078(b)(1).

Added by Acts 1995, 74th Leg., ch. 638, Sec. 7, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 1405, Sec. 29, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 86, eff. Jan. 1, 2002.

Sec. 771.078. CONTRACTS FOR SERVICES. (a) The commission shall contract with regional planning commissions for the provision of 9-1-1 service. The commission by rule shall adopt standard provisions for the contracts.

(b) In making contracts under this section, the commission shall ensure that each regional planning commission receives money for 9-1-1 service in two separately computed amounts as provided by this subsection. The commission must provide each regional planning commission with:

(1) an amount of money equal to the total of the revenue from the emergency service fees collected under Section 771.071 that is deposited in the treasury and appropriated to the commission multiplied by a fraction, the numerator of which is the amount of those fees collected from the region and the denominator of which is the total amount of those fees collected in this state; and

(2) an amount of money equal to the total of the revenue from the emergency service fee for wireless telecommunications connections under Section 771.0711 that is deposited in the treasury and appropriated to the commission multiplied by a fraction, the numerator of which is the population of the region and the denominator of which is the population of this state.

(c) Contracts under this section must provide for:

(1) the reporting of financial information regarding administrative expenses by regional planning commissions in accordance with generally accepted accounting principles;

(2) the reporting of information regarding the current performance, efficiency, and degree of implementation of emergency

communications services in each regional planning commission's service area;

(3) the collection of efficiency data on the operation of 9-1-1 answering points;

(4) standards for the use of answering points and the creation of new answering points;

(5) quarterly disbursements of money due under the contract, except as provided by Subdivision (6);

(6) the commission to withhold disbursement to a regional planning commission that does not follow a standard imposed by the contract, a commission rule, or a statute; and

(7) a means for the commission to give an advance on a quarterly distribution under the contract to a regional planning commission that has a financial emergency.

(d) Not more than 10 percent of the money received by a regional planning commission under Subsection (b) may be used for the regional planning commission's indirect costs. In this subsection, "indirect costs" means costs that are not directly attributable to a single action of a commission. The governor shall use the federal Office of Management and Budget circulars A-87 and A-122 or use any rules relating to the determination of indirect costs adopted under Chapter 783, Government Code, in administering this section.

(e) The commission may allocate surcharges under Section 771.072(d) by means of a contract under this section.

(f) Promptly after the commission receives a request from a regional planning commission, the commission shall provide the regional planning commission with adequate documentation and financial records of the amount of money collected in that region or of an amount of money allocated to the regional planning commission in accordance with this section.

Added by Acts 1999, 76th Leg., ch. 1405, Sec. 30, eff. Sept. 1, 1999.

Sec. 771.079. 9-1-1 SERVICES FEE FUND. (a) The 9-1-1 services fee fund is an account in the general revenue fund.

(b) The account consists of:

(1) fees deposited in the fund as provided by Sections 771.071 and 771.0711; and

(2) notwithstanding Section 404.071, Government Code, all interest attributable to money held in the account.

(c) Money in the account may be appropriated only to the commission for planning, development, provision, or enhancement of the effectiveness of 9-1-1 service or for contracts with regional planning commissions for 9-1-1 service.

(d) Section 403.095, Government Code, does not apply to the account.

Added by Acts 1999, 76th Leg., ch. 1405, Sec. 31, eff. Sept. 1, 1999.

SUBCHAPTER E. EMERGENCY MEDICAL DISPATCH
RESOURCE CENTERS

Sec. 771.101. DEFINITION. In this subchapter, "center" means the area health education center at The University of Texas Medical Branch at Galveston that meets the requirements of 42 U.S.C. Section 294a and has received federal funding as an area health education center.

Amended by:

Acts 2005, 79th Leg., Ch. 15, Sec. 1, eff. May 3, 2005.

Sec. 771.102. ESTABLISHMENT OF THE EMERGENCY MEDICAL DISPATCH RESOURCE CENTERS PROGRAM. (a) The center, with the assistance of the advisory council appointed under Section 773.012, shall establish a program to use emergency medical dispatchers located in regional emergency medical dispatch resource centers to provide life-saving and other emergency medical instructions to persons who need guidance while awaiting the arrival of emergency medical personnel. The purpose of a regional emergency medical dispatch resource center is not to dispatch personnel or equipment resources but to serve as a resource to provide pre-arrival instructions that may be accessed by selected public safety answering points that are not adequately staffed or funded to provide those services.

(b) The commission shall provide technical assistance to the center to facilitate the implementation of the project.

(c) The center, with the assistance of the advisory council, shall:

(1) design criteria and protocols and provide oversight as needed to conduct the program;

(2) collect the necessary data to evaluate the program; and

(3) report its findings to the legislature.

Added by Acts 2001, 77th Leg., ch. 874, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1345, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 15, Sec. 1, eff. May 3, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1196, Sec. 1, eff. September 1, 2007.

Sec. 771.103. PARTICIPATION IN PROGRAM. (a) The center shall determine which public safety answering points are interested in participating in the program.

(b) Participating public safety answering points must agree to participate in any required training and to provide regular reports required by the center for the program.

Added by Acts 2001, 77th Leg., ch. 874, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1345, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 15, Sec. 1, eff. May 3, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1196, Sec. 2, eff. September 1, 2007.

Sec. 771.104. SELECTION OF PROGRAM PARTICIPANTS AND REGIONAL EMERGENCY MEDICAL DISPATCH RESOURCE CENTERS. (a) The center, with the assistance of the advisory council, may select public safety answering points to participate in the program or to serve as regional emergency medical dispatch resource centers. A public safety answering point may participate in the program and serve as a regional emergency medical dispatch resource center. A public safety answering point selected for the program or to serve

as a resource center must:

(1) have a fully functional quality assurance program that measures each emergency medical dispatcher's compliance with the medical protocol;

(2) have dispatch personnel who meet the requirements for emergency medical dispatcher certification or the equivalent as determined by the Department of State Health Services;

(3) use emergency medical dispatch protocols approved by a physician medical director knowledgeable in emergency medical dispatch;

(4) have sufficient experience in providing pre-arrival instructions; and

(5) have sufficient resources to handle the additional workload and responsibilities of the program.

(b) In selecting an existing public safety answering point to act as a resource center, the center shall consider a public safety answering point's ability to keep records and produce reports to measure the effectiveness of the program. The center shall share information regarding a public safety answering point's abilities with the advisory council.

Added by Acts 2001, 77th Leg., ch. 874, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1345, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 15, Sec. 1, eff. May 3, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1196, Sec. 3, eff. September 1, 2007.

Sec. 771.105. CRITERIA FOR EMERGENCY MEDICAL DISPATCH INTERVENTION. The center, with the assistance of the advisory council, shall define criteria that establish the need for emergency medical dispatch intervention to be used by participating public safety answering points to determine which calls are to be transferred to the regional emergency medical dispatch resource center for emergency medical dispatch intervention.

Added by Acts 2001, 77th Leg., ch. 874, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1345, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 15, Sec. 1, eff. May 3, 2005.

Sec. 771.106. FUNDING OF PROGRAM. (a) Money in the 9-1-1 services fee fund and other state funds may be appropriated to The University of Texas Medical Branch at Galveston on behalf of the center to fund the program.

(b) The University of Texas Medical Branch at Galveston on behalf of the center and the center are also authorized to seek grant funding for the program.

(c) A political subdivision that participates in the program may pay an appropriate share of the cost of the program.

(d) The provisions in this subchapter that require the center to establish, conduct, and evaluate the program are contingent on the center receiving funding in accordance with this section. If a sufficient number of political subdivisions in a region that could be served by a program offer to pay the center an amount that in the aggregate, together with any other funding received under this section, is sufficient to fund the program for the region, The University of Texas Medical Branch at Galveston, on behalf of the center:

(1) shall enter into contracts with the offering political subdivisions under which each will pay an appropriate share of the cost; and

(2) when the amount under the signed contracts, together with any other funding received under this section, is sufficient to fund the program for the region, shall implement the program for the region.

Added by Acts 2001, 77th Leg., ch. 874, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1345, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 167, Sec. 1, eff. May 27, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 15, Sec. 1, eff. May 3, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1196, Sec. 4, eff. September 1, 2007.

Sec. 771.107. REPORT TO LEGISLATURE. The center shall biennially report its findings to the governor, the presiding

officer of each house of the legislature, and the advisory council no later than January 1 of each odd-numbered year.

Added by Acts 2001, 77th Leg., ch. 874, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1345, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 167, Sec. 2, eff. May 27, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 15, Sec. 1, eff. May 3, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1196, Sec. 5, eff. September 1, 2007.

Sec. 771.108. LIABILITY. The operations of the regional emergency medical dispatch resource center are considered to be the provision of 9-1-1 services for purposes of Section 771.053. Employees of and volunteers at the center have the same protection from liability as a member of the governing body of a public agency under Section 771.053.

Added by Acts 2001, 77th Leg., ch. 874, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1345, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 15, Sec. 1, eff. May 3, 2005.

Sec. 771.109. WORK GROUP. (a) The center may appoint a program work group to assist the center in developing, implementing, and evaluating the program and preparing a report on the center's findings.

(b) A member of the work group receives no additional compensation for serving on the program work group and may not be reimbursed for travel or other expenses incurred while conducting the business of the program work group.

(c) The program work group is not subject to Chapter 2110, Government Code.

Added by Acts 2003, 78th Leg., ch. 167, Sec. 3, eff. May 27, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 15, Sec. 1, eff. May 3, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1196, Sec. 6, eff. September 1, 2007.