

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2785

FISCAL
NOTE

2015 Carryover

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AND ELDRIDGE

[Introduced January 13, 2016; referred to the

Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designed §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7,
 3 §15-14-8, §15-14-9, §15-14-10, §15-14-11 and §15-14-12, all relating to creating the
 4 Statewide Interoperable Radio Network; establishing a short title; defining terms;
 5 establishing objectives and a purpose; creating the Statewide Interoperable Radio
 6 Network; creating the Statewide Interoperable Coordinator; prescribing duties for the
 7 Statewide Interoperability Coordinator; creating the Statewide Interoperability Executive
 8 Committee; prescribing duties for the Statewide Interoperability Executive committee;
 9 creating the Regional Interoperability Committees; providing for disposition of assets and
 10 staffing of the Statewide Interoperable Radio Network; establishing a special revenue
 11 account for the Statewide Interoperable Radio Network; and authorizing emergency and
 12 legislative rule-making.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7,
 3 §15-14-8, §15-14-9, §15-14-10, §15-14-11 and §15-14-12, all to read as follows:

ARTICLE 14. THE STATEWIDE INTEROPERABLE RADIO NETWORK.

§15-14-1. Short title.

1 This article is known as and may be cited as the "Statewide Interoperable Radio Network
 2 Act".

§15-14-2. Definitions.

3 "Director" means the Director of West Virginia Division of Homeland Security and
 4 Emergency Management.

5 "Statewide Interoperable Radio Network" or "SIRN" means the interoperable
 6 communications network established for the purpose of implementing and maintaining an
 7 interoperable communications network for first responders to help assure the safety of all citizens
 8 in the event of disaster or emergency.

9 "Statewide Interoperability Coordinator" or "SWIC" means the individual appointed by the
 10 Governor to oversee the state's interoperable communications efforts in planning and
 11 coordinating the SIRN.

12 "Statewide Interoperability Executive Committee" or "Executive Committee" means the
 13 governing body of the SIRN.

14 "WVDHSEM" means the West Virginia Division of Homeland Security and Emergency
 15 Management.

16 "Regional Interoperability Committee" means the committee or committees that shall
 17 assist the SWIC and the Executive Committee with governing and monitoring the implementation
 18 and operation of the SIRN and establishing goals for the betterment of the SIRN.

§15-14-3. Purpose and objectives.

1 (A) One of the most important and profound duties of the State of West Virginia is to
 2 provide for the safety and security of her citizens. The state must constantly be prepared to
 3 immediately respond to any homeland security threat or event and all disasters, natural or
 4 man-made. With any Homeland Security threat or event, and all disasters, natural or man-made,
 5 the state must be able to instantly and effectively communicate in order to collaborate with various
 6 entities which are geographically dispersed.

7 (b) The purpose of this article is to ensure the most effective communication in the
 8 provision of emergency services, to assure an immediate and coordinated response to disasters
 9 and emergencies, and to ensure the maintenance and operation of the equipment comprising the

10 SIRN.

§15-14-4. Appointment of the Statewide Interoperability Coordinator.

1 (a) (1) The Statewide Interoperability Coordinator shall be appointed by the Governor, by
2 and with the advice and consent of the Senate, after receiving recommendations as described in
3 subsection (d) of the section, and shall serve under the director of WVDHSEM until a qualified
4 successor is appointed.

5 (2) On or before July 1, 2015, the Governor shall appoint the SWIC for a nonexpiring term
6 commencing on that date a vacancy occurring in the office shall be filled by appointment of the
7 Governor.

8 (3) The SWIC may be removed from office by the Governor for cause as provided in
9 the State Constitution. At the time of initial appointment, he or she shall be selected with special
10 reference and consideration given to his or her training, experience, capacity and interest in the
11 SIRN. He or she shall not be a candidate for or hold any other public office, shall not be a
12 member of any political party committee, and shall immediately forfeit and vacate his or her office
13 as SWIC in the event he or she becomes a candidate for or accepts an appointment to any other
14 public office or political party committee.

15 (b) The SWIC shall be paid through WVDHSEM.

16 (c) By May 1, 2015, the Executive Committee shall submit a list of no more than three
17 qualified persons for the SWIC position to the Governor. The Governor may appoint any
18 individual on the list received from the Executive Committee. The Governor shall appoint the
19 SWIC, as required by this article, within thirty days following the receipt of the list of qualified
20 candidates. At any such time thereafter, should a vacancy occur in the SWIC position, the
21 Executive Committee shall have thirty days from the date of such vacancy to provide a list as
22 described above to the Governor.

§15-14-5. Duties of the Statewide Interoperability Coordinator.

- 1 (a) The Statewide Interoperability Coordinator shall:
- 2 (1) Oversee the state's interoperable communications efforts in planning and coordinating
- 3 the SIRN;
- 4 (2) Be the point of contact for any public or private entity or individual seeking information
- 5 about the SIRN;
- 6 (3) Carry out the directions of the Executive Committee;
- 7 (4) Act as a liaison between the Executive Committee and the West Virginia Division of
- 8 Homeland Security and Emergency Management (WVDHSEM) for matters related to the SIRN;
- 9 (5) Coordinate maintenance of the SIRN with WVDHSEM;
- 10 (6) Implement and maintain a system for control of SIRN inventory;
- 11 (7) Ensure all interoperable communications funds and functions of the state are
- 12 coordinated to the maximum extent with the comparable functions for the federal government
- 13 including its various departments and agencies, of other state and localities and of private
- 14 agencies of every type, so that the most effective preparation and use may be made of the nation's
- 15 and this state's communications resources and facilities for dealing with any disaster or
- 16 emergency that may occur;
- 17 (8) Provide the SIRN approved compatibility equipment list to any state spending unit or
- 18 state agency, including purchases on behalf of state agencies, county and local first responder
- 19 agencies for purchases of two-way radio, microwave or satellite equipment and related services,
- 20 or purchases that utilize state or federal funds distributed to local entities by the state;
- 21 (A) Any spending unit shall provide notice to the SWIC prior to the time it submits its
- 22 request for proposal to the State Purchasing Division or prior to the issuance of a purchase order
- 23 for the equipment; and

24 (B) If the proposed equipment or service is shown to be incompatible with the SIRN,
25 justification must be provided to the SWIC to determine approval on its necessity to enhance an
26 existing legacy system;

27 (9) Comply with any other duties prescribed by the Legislature;

28 (10) Review all contractual documents related to usage and maintenance of the SIRN,
29 including, but not limited to, land or tower leases, memorandums of understanding, training
30 contracts, and purchasing or service contracts, to ensure compatibility with the SIRN, to promote
31 the best possible value in purchasing, and to ensure all agencies participating in the SIRN and
32 needing equipment and related services are covered by the contractual documents; and

33 (11) Provide recommendations regarding statewide priorities relate to interoperable
34 communications to the executive committee, which shall in turn be presented to the Governor.

35 (b) (1) The SWIC, in conjunction with the WVDHSEM Director may employ such technical,
36 clerical, stenographic and other personnel to assist in administration and operation of the SIRN
37 and fix their compensation and may incur such expenses as may be necessary in the performance
38 of the duties of the office.

39 (2) The SWIC may utilize personnel within WVDHSEM, with the approval of the director,
40 to fulfill their requirements of this section.

§15-14-6. THE STATEWIDE INTEROPERABILITY EXECUTIVE COMMITTEE.

1 (a) The Statewide Interoperability Executive Committee is a governmental instrumentality
2 of the state within WVDHSEM. The exercise by the Executive Committee of the powers
3 conferred by this article and the carrying out of this purpose and duties shall be considered and
4 held to be, and are determined to be, essential governmental functions and for a public purpose.

5 (b) The Executive Committee shall consist of the following members or their designee:

- 6 (1) The Director of the WVDHSEM;
- 7 (2) The Superintendent of the West Virginia State Police;
- 8 (3) The President of the West Virginia Emergency Management Council;
- 9 (4) The Adjutant General of the West Virginia National Guard;
- 10 (5) The West Virginia Chief Technology Officer;
- 11 (6) The President of the West Virginia Enhanced 911 Council;
- 12 (7) The President of the West Virginia Sheriffs' Association;
- 13 (8) The West Virginia State Fire Marshal;
- 14 (9) The President of the West Virginia County Commissioners' Association;
- 15 (10) The President of the West Virginia Municipal League;
- 16 (11) The Secretary of the Department of Transportation;
- 17 (12) The Director of the West Virginia Department of Health and Human Resources, Office
18 of Emergency Medical Services;
- 19 (13) One representative from each of the agencies which own one of the SORN's zoned
20 master site switches not otherwise represented; and
- 21 (14) The chairman of each of the Regional Interoperability Committees.
- 22 (c) The Director of the WVDHSEM shall serve as the chairman of the Executive
23 Committee.
- 24 (d) Members of the Executive Committee shall serve without compensation. However,
25 each member of the Executive Committee may receive reimbursement from the SORN account,
26 for actual expenses, including travel expenses, in accordance with state travel guidelines.

§15-14-7. Duties of the Statewide Interoperability Executive Committee.

1 The Executive Committee shall:

- 2 (1) Monitor the implementation and operation of the SORN;

- 3 (2) Establish goals and guidance for the betterment of the SIRN;
- 4 (3) Review and approve all requests for use of the SIRN and its equipment, by a public or
5 private entity;
- 6 (4) Serve as the mechanism for updating policies, procedures and guidelines related to
7 the SIRN;
- 8 (5) Identify new technologies and develop technologies and standards for the SIRN;
- 9 (6) Enhance the coordination of all available resources for public safety communications
10 interoperability;
- 11 (7) Report regularly at each legislative session on the implementation of the purposes set
12 forth in this article;
- 13 (8) Investigate all matters relating to integrity, foresight in funding and operations and
14 planning for the SIRN; and
- 15 (8) Coordinate the implementation of any grant funding received related to the SIRN.

§15-14-8. Governance and operation of the Statewide Interoperability Executive Committee.

- 1 (a) The Statewide Interoperability Executive Committee shall act as the governing body of
2 the SIRN.
- 3 (b) Maintenance, repairs and day-to-day operations relating to communications
4 interoperability of the SIRN shall be carried out by WVDHSEM subject to the policies, procedures,
5 and guidelines established by the Executive Committee.
- 6 (c) The Executive Committee and WVDHSEM shall work in conjunction to ensure
7 continuity of operations of the SIRN.

§15-14-9. THE REGIONAL INTEROPERABILITY COMMITTEES; COMPOSITION;

DUTIES.

1 (a) The Regional Interoperability Committees shall operate in each of the defined state
2 homeland security regions.

3 (b) Each Regional Interoperability Committee shall consist of no more than one
4 representative from each identified discipline within each region, and should include, but not be
5 limited to, the following agencies, as well as those deemed necessary by the SWIC, Regional
6 Interoperability Committee, or Executive Committee to ensure public safety:

7 (1) Municipal, county or regional hospitals;

8 (2) Municipal, county or state law enforcement;

9 (3) Municipal, county or private transit;

10 (4) Civil Air Patrol;

11 (5) County Enhanced 911;

12 (6) Emergency medical services;

13 (7) Federal law enforcement;

14 (8) Federal government (nonlaw enforcement);

15 (9) Municipal or county fire service;

16 (10) Municipal or county health department;

17 (11) Higher education public safety;

18 (12) Municipal or county Homeland Security/Emergency Management;

19 (13) Private industry-critical infrastructure and key resources;

20 (14) Regional response team;

21 (15) Radio Amateur Civil Emergency Services (RACES) or Amateur Radio Emergency
22 Service (ARES);

23 (16) American Red Cross;

24 (17) Nonfirst responder state agencies;

25 (18) Volunteer search and rescue organizations;

26 (19) County Commissioners' Association of West Virginia; and

27 (20) West Virginia Municipal League.

28 (c) The Regional Interoperability Committees shall:

29 (1) Assist the SWIC and the Executive Committee with governing and monitoring the
30 implementation and operation of the SIRN and establishing goals for the betterment of the SIRN;

31 and

32 (2) Serve as the mechanism for providing local level input to the Executive Committee for
33 governance, identifying and developing technologies and standards, and coordination of
34 resources.

35 (d) Regional Interoperability Committee members shall serve without compensation.
36 However, each Regional Interoperability Committee member may receive reimbursement from
37 the SIRN account for actual expenses, including travel expenses, in accordance with state travel
38 guidelines.

**§15-14-10. ASSETS AND STAFFING FOR THE STATEWIDE INTEROPERABLE
RADIO NETWORK.**

1 (a) All of the allied, advisory, affiliated entities and funds associated with the SIRN and all
2 its functions, personnel and property, are transferred to, incorporated in and administered as a
3 part of WVDHSEM for maintenance of the SIRN.

4 (b) The director, in conjunction with the SWIC, may employ technical, clerical, legal
5 counsel, stenographic and other personnel, fix their compensation and make expenditures within
6 the appropriation to the agency, from the SIRN account or from other funds made available for

7 the purpose of providing interoperable communications services to carry out the purpose of this
8 article.

§15-14-11. Creation of the Statewide Interoperable Radio Network account; purpose; funding; disbursements.

1 (a) There is hereby created in the State Treasury a separate special revenue account,
2 which shall be an interest bearing account, to be known as the "Statewide Interoperable Radio
3 Network Account." The special revenue account shall consist of income generated from the
4 SIRN, appropriations made by the Legislature, income from the investment of moneys held in the
5 special revenue account, grant money and all other sums available for deposit to the special
6 revenue account from any source, public or private. No expenditures for purposes of this section
7 are authorized from collections except in accordance with the provisions of article three, chapter
8 twelve of this code and upon fulfillment of the provisions set forth in article two, chapter five-a of
9 this code. No expenses incurred under this section shall be a charge against the general funds
10 of the state.

11 (b) Moneys in the special revenue account shall be appropriated to WVDHSEM and used
12 exclusively, in accordance with appropriations by the Legislature, to pay costs, fees and expenses
13 incurred, or to be incurred for the following purposes: (1) The maintenance, upkeep and repair
14 of the SIRN; (2) operations of the Executive Committee; (3) payment of salaries for the SWIC
15 and any personnel required to operate and maintain the SIRN; (4) the design, implementation
16 and management of the SIRN; (5) all other related SIRN activities approved by the Executive
17 Committee; and (6) all costs incurred in the administration of the SIRN account.

18 (c) Any balance remaining in the special revenue account at the end of any state fiscal
19 year shall not revert to the General Revenue Fund but shall remain in the special revenue account
20 and shall be used solely in a manner consistent with this section.

21 (d) Disbursements from the special revenue account shall be authorized by the director or
 22 his or her designee. Moneys in the special revenue account shall not be available for the
 23 payment of any personal injury claims, workers' compensation claims or other types of disability
 24 claims.

25 (e) Quarterly, the director shall prepare an accounting of all moneys disbursed from the
 26 added to the SIRN account. This accounting shall include the reason for the withdraw, the
 27 recipients of any withdraw, and the source of any deposit.

§15-14-12. Rule-making.

1 To implement the provisions of this article, the director may promulgate emergency rules
 2 pursuant to section fifteen, article three, chapter twenty-nine-a of this code and may propose rules
 3 for legislative approval in accordance with article three, chapter twenty-nine-a of this code.

NOTE: The purpose of this bill is to create the Statewide Interoperable Radio Network. The bill establishes a short title. The bill defines terms. The bill establishes objectives and a purpose.. The bill prescribes duties for the Statewide Interoperability Coordinator. The bill prescribes duties for the Statewide Interoperability Executive committee. The bill provides for disposition of assets and staffing of the Statewide Interoperable Radio Network. The bill establishes a special revenue account for the Statewide Interoperable Radio Network. The bill authorizes emergency and legislative rule-making.

This article is new; therefore, it has been completely underscored.