

## History of Colorado Statute Title 29, Article 11 - 911 Law

**Note: This section is currently being revised for 2020. Information for 2020 is incomplete.**

### **Summary**

Colorado's 911 statute was first established in 1981, and has been updated 12 times since its creation.

1981: Colorado's initial 911 statutes allowed local governing bodies to impose an Emergency Telephone Charge (ETC) rate up to 2% of the tariffed local telecommunications service rates. Carriers were also allowed to keep up to 2% of what they collected from the customers prior to remitting it to the governing bodies, but no more than their actual administrative expenses. Governing bodies could then use those funds to pay installation costs for provision of 911 and E911 services. There were no exemptions to the charge, and carriers were required to remit quarterly.

1985: Equipment costs were added as an eligible expense for use of ETC funds.

1990: The 2% ETC rate that governing bodies could apply was changed to a flat rate, and governing bodies were allowed to set that flat rate up to 70¢ without additional approval. Rates above 70¢ required Commission approval. Local and state governments were exempted from the rate. Required remittances from carriers were changed from quarterly to monthly, and they were now allowed to keep up to 2% of the amount collected regardless of what their actual administrative costs were. There was a limit set of 100 charges per customer.

1992: Emergency Medical Dispatch protocols were added as an eligible expense.

1995: Personnel expenses, specifically those related to personnel who answer and dispatch emergency calls for service and personnel who maintain the computer database of the public safety answering point (PSAP), were added as an eligible expense, but only for communities with populations of 50,000 or less.

1997: The concept of a Basic Emergency Service Provider (BESP) was added to the statute, and the statute was rewritten to apply the charge to wireless services. The 100 charges per customer limit was removed, and an "other expenses" category was added to the eligible expenses. Cost recovery for wireless providers was also added as an eligible expense, and an immunity provision was added.

2001: Requirements were added for Multi-Line Telephone Systems (MLTS)

2002: Emergency Notification Systems were added as an eligible expense.

2004: The list of eligible expenses was expanded to include radios, radio programming, emergency training programs, and equipment necessary for diversion of non-emergency calls to redirect calls for non-emergency telephone services. The limitation that personnel expenses were only allowable for communities of 50,000 or less was also removed, meaning that any size governing body could spend ETC funds on personnel of specific descriptions.

2008: The ETC was expanded to include Voice over Internet Protocol (VoIP) services. The requirement that new ETC rates take place on January 1 was removed. Governing bodies hereafter can set new ETC rates whenever they wish, with 60-day notice to the providers. PUC approval is still required for rates over 70¢.

2010: Prepaid 911 surcharge added at 1.4% at point of sale, remitted to the Department of Revenue, and then distributed to 911 governing bodies using a formula provided by the Commission based on wireless call volume.

2016: TRS fee section added. Despite being in the middle of the 911 statutes, this section does not relate to 911 service.

2020: Major overhaul of § 29-11-100 through 107, including creation of sections 100.2, 101.5 and 102.3, and replacement of section 106 with 107. Highlights of these changes:

- The Commission now has the responsibility to set the threshold at which Emergency Telephone Charge increases require approval from the Commission. Previously, this threshold was set in statute at 70 cents. Beginning in 2020, the Commission sets this threshold annually to take effect the following year.
- A new state 911 surcharge was created. The Commission may set the rate of the surcharge up to 50¢ per 911 access connection per month, and may be adjusted annually. Carriers remit those surcharges to the Commission, which will then distribute the funds (minus a 4% administrative retention) to the local 911 governing bodies based on the number of concurrent sessions (the number of 911 calls that can be taken simultaneously) at each of their 911 centers. This new charge goes into effect Jan 1, 2021.
- Beginning Jan 1, 2021, the prepaid 911 surcharge rate changed from 1.4% to \$1.38 per transaction.
- The Commission now has the authority to audit carriers regarding their 911 surcharge remittance practices, both for the new state 911 surcharge and the local emergency telephone charge.
- The list of expenses that 911 governing bodies may expend 911 funds on (whether originating from the local emergency telephone charge, the state 911 surcharge, or the prepaid 911 surcharge) was updated. Personnel expenses and expenses for radio equipment outside the public safety answering point may only be expended from 911 funds if all other eligible expenses are funded.

- The immunity from liability previously provided to the basic emergency service provider is extended to include other types of vendors that provide services to public safety answering points and 911 governing bodies.
- The MLTS requirements previously in the statute are repealed, and instead the statute directs the Commission to establish a complaint portal. Complaints received by the Commission are to be relayed to the appropriate agency based on the nature of the complaint.

## **Detail By Year**

1981 - 911 statute created

- Created Section 101 - Definitions
- Created Section 102 - Imposition of Charge
- Created Section 103 - Remittance of Surcharge
- Created Section 104 - Use of funds

1985: Added equipment as an eligible expense of ETC funds.

- Amended Section 101 (1) - Added "equipment costs" to the definition of "emergency telephone charge". Prior to this, it just said it was for installation costs. Also added the term "if applicable" to the end of the definition after "filed with the public utilities commission."
- Added Section 101 (2.5) - definition of "equipment supplier"
- Amended Section 102(1) - Added equipment costs as an eligible expense. Prior to this, it only mentioned installation.
- Section 104 (2) amended - equipment expenses added as an eligible expense.
- Section 104 (3) amended - equipment suppliers added as an entity to be paid before funds are transferred to the local government general fund in the event of a discontinuation of the service.

1990: Surcharge changed from a percentage to a flat rate, locally set, with PUC approval for rates over 70 cents, other minor changes.

- Amended Section 102(2) amended to allow surcharges up to 70 cents, or higher with Commission approval. Prior to this, local governments could set surcharges up to 2% of the tariffed rate for local service.
- Amended Section 102 (3) - Exempted state and local governments from paying ETC. Also,
- Section 103 (1) amended to change the remittance requirements from quarterly to monthly.
- Section 103 (2) amended to allow service suppliers the ability to keep 2% of the remittance. Prior to this amendment, they were allowed to only keep an amount equal to the actual costs of administration of the remittance, with a cap of 2%.

1992: Added EMD as eligible expense

- Section 104 (2) amended to add EMD as an eligible expense

1995: Added personnel costs as eligible expense

- Section 104 (2) amended - Added as an eligible expense (in communities of 50,000 or less) personnel costs to include personnel who take and dispatch emergency telephone calls and “persons employed to maintain the computer data base of the public safety answering point.” Also added that the population of a county for this purpose would be determined by referencing the DOLA division of planning. Prior to this amendment, ETC funds could only be spent on “equipment costs, for the installation costs, and for the monthly recurring charges billed by the service supplier for the emergency telephone service.”

1997 - Added Wireless 911 and added immunity provisions. Added concept of the BESP and Commission approval of surcharge rates over a certain amount.

- Created Section 100.5 - Legislative Declaration
- Amended Section 101(1),(2),(7),(8), and (9)
- Section 101: Definitions added for:
  - BESP
  - Commission
  - Public Safety Answering Point
  - Rates
  - Deleted definition of “tariff rates”
  - Telecommunications service
  - Wireless ALI
  - Wireless ANI
  - Wireless communications access
  - Wireless carrier
- Section 102 (1)(b) amended - added concept of the BESP
- Section 102 (2) amended - added references to the BESP.
- Section 102 (3) amended - there was a limitation of 100 access lines per customer to be charged that was removed.
- Section 102 (7) amended - reference to the tariffed rates of service suppliers removed
- Section 103 (3) amended - broke auditing authority of local government body into its own paragraph, and added that audits were subject to public inspection.
- Section 104 (2) amended - The list of eligible expenses was expanded to include wireless cost recovery and “other costs, excluding personnel costs”.
- Section 104 (3) amended - Added BESP to the list of suppliers that would be paid prior to funds being transferred to the local government general fund in the event that the emergency service is discontinued.
- Section 104 (4) added - Wireless cost recovery
- Created Section 105 - Immunity

2001 - added MLTS requirements

- Section 100.5 amended in whole
  - Minor rewording of (1), including the addition of reference to MLTS.
  - Addition of (2), adding legislative statement about MLTS
  - Addition of (3), stating that “nothing in this article should be construed to alter the method of regulation or deregulation of providers of telecommunications services as set forth in article 15 of title 40, C.R.S.”
- Amended Section 101(1) - Definition of “BESP” moved to (1.2). (1) was changed to a new definition for “ALI”
- Added Section 101(1.1) - definition of “ANI”
- Added Section 101(4.5) - definition of “MLTS operator”
- Added Section 101(4.6) - definition of “MLTS”
- Created Section 106 - MLTS Requirements

2002 - ENS added

- Section 101(1.5) added - Added definition of “Emergency Notification Service”
- Section 104 (2)(a)(I)(C), (D) and (E) amended - Added emergency notification service as an allowable expense, inserted between (C) and (E).

2004 - Changes to allowable uses of funds, and some cleanup.

- Amended Section 100.5 (1) - nonsubstantive wording change - added reference to this being “Part 1” of Title 29 Article 11
- Amended Section 100.5 (3) - nonsubstantive wording change - added reference to this being “Part 1” of Title 29 Article 11
- Section 101 (1.6) added - Definition of “Emergency service provider” added.
- Section 101 (13) and (14) amended - Definitions of “wireless carrier” and “wireless communications access” switched, apparently to put them in alphabetical order.
- Section 102 (1)(a) amended - Clarification added that the allowable uses of ETC funds must conform to section 104.
- Section 104 (2) amended
  - (2)(a)(I)(D) changed to include the language “and the emergency telephone service, including costs associated with total implementation of both services by emergency service providers, including costs for programming, radios, and emergency training programs”
  - (2)(a)(I)(E) amended to remove the phrase “excluding personnel costs”
  - (2)(a)(II) amended to add the phrase “or the necessary equipment to redirect calls for nonemergency telephone services”
  - (2)(b) amended to remove the phrase “in a county with population of fifty thousand or less that has entered into a cooperative intergovernmental agreement for the provisions of emergency telephone service”
  - (2)(c), which stated “For the purposes of paragraph (b) of this subsection (2), the population of a county shall be determined by the most recent available estimate by the division of planning in the department of local affairs” was deleted.

2008 - VoIP added and other changes to rate setting, ETC collection, and remittance practices.

- Section 101 (3) amended - definition of “exchange access facility” simplified
- Section 101 (7) amended - VoIP added to definition of “service supplier”
- Section 101 (8) amended - VoIP added to definition of “service user”
- Section 101(4.3) added - adds a definition for interconnected VoIP
- Section 102(2)(a) amended - VoIP added to ETC
- Section 102 (2)(c) amended - VoIP added to the requirement that ETCs be assessed equally.
- Section 102 (5) amended - Words “if any” added to “may be stated separate in the billings, if any, to the user.”
- Section 102 (6) amended - Phrase “that have been billed to the service user” added to the end of the paragraph, indicating that service suppliers may be liable for uncollected ETC funds if they fail to bill the user for it.
- Section 103 (1) amended - the words “or paid” added wherever the word “collected” appears, indicating that carriers are liable for remitting ETC to governing bodies even if they pay the ETC on behalf of their customers.
- Section 103 (3)(a) amended - Changed a requirement that new ETC rates take effect on January 1 to allow governing bodies to make the new rate effective with 60-days notice to the service suppliers.
- Section 104 (5) added - adds a requirement that governing bodies include an audit of the use of their 911 surcharge funds as part of their annual audit requirements, and that it be made available on the governing body’s website if it has one.

2010 - Prepaid 911 fee added

- Section 101 (5.5) added - adds a definition for a “prepaid wireless telecommunications service”
- Section 102 (2)(e) added - states that Section 102 does not apply to prepaid telephone services.
- Created Section 100.5 - Prepaid 911

2016 - TRS Fee Section Added

- Created Section 102.7 - TRS fee.

2020 - Major Revision of the 911 Statutes

- Section 100.5 (Legislative declaration) repealed and replaced with 100.2.
- Section 101 (Definitions) repealed and reenacted with amendments. New or revised definitions:
  - “911” - new
  - “911 Access Connection” - new
  - “911 call” - new
  - “911 surcharge” - new
  - “Basic Emergency Service” - new
  - “Basic Emergency Service Provider” - amended

- “Demarcation point” - new
- “Emergency telephone charge” - amended
- “Emergency Telephone service” - amended
- “Exchange Access Facilities” - deleted
- “Governing Body” - amended
- “Governing Body’s Jurisdiction” - new
- “Public Safety Answering Point” - amended
- “Rates” - deleted
- “Service supplier” - amended
- “Service user” - amended
- “State 911 Fund” - new
- “Wireless automatic location identification” - amended
- “Wireless communications access” - deleted
- All definitions numbered
- Section 101.5 added. Allows the Public Utilities Commission to promulgate rules “regarding the collection, payment, remittance, and audit of the emergency telephone charge [and] 911 surcharge. The Commission is also authorized to impose penalties for violations of said rules.
- Section 102 - Emergency Telephone Charges. entire section repealed and reenacted. Substantive changes include:
  - New emergency telephone charge rates can only go into effect on February 1 or June 1 of each year.
  - The threshold above which PUC approval is required for a change to an emergency telephone charge (70¢) is now set by the Commission annually, by October 1, to go into effect on the following January 1. In setting the threshold, the Commission must take into account inflation and the needs of the 9-1-1 governing bodies.
  - The emergency telephone charge is now assessed on all 9-1-1 access connections, a new term added in the section 101 which encompasses any devices or service that can make a 9-1-1 call. Wireless prepaid telephone services remain exempted. Also continuing to be exempt are phone lines belonging to state and local government entities.
  - The Commission may now require annual reporting from 9-1-1 governing bodies for information to be included in the annual state of 9-1-1 report to the General Assembly as required in § 40-2-131, C.R.S. The data included in this reporting may also be considered by the Commission when evaluating an application filed by a 9-1-1 governing body to increase its emergency telephone charge rate above the current threshold set by the Commission.
  - 9-1-1 governing bodies shall keep on file with the Commission a description of its jurisdictional boundaries or a GIS shape file.
- Section 102.3 - State 9-1-1 Surcharge. new section.

- (1) (a) Creates a state 9-1-1 surcharge, in addition to the local emergency telephone charges authorized in section 102. The rate is established annually by the Commission and may not exceed 50¢ per month per 9-1-1 access connection
- (1) (b) The state 9-1-1 surcharge is set by the Commission annually by October 1 to take effect the following January 1. It must be set to reasonably meet the needs of the governing bodies.
- (1) (c) The rate must be uniform regardless of the technology used to provide the 9-1-1 access connection.
- (2) Service suppliers (telecommunications carriers) are required to collect the surcharge. The surcharge must be listed separately on the customer's bill, if surcharges are listed at all. Suppliers are only liable to remit surcharges successfully collected from the customer.
- (3) (a) Service suppliers shall remit the surcharge to the Commission on a monthly basis.
- (3) (b) Service suppliers may keep 1% of the surcharges collected.
- (3) (c) (I) Remittances collected by the Commission shall be distributed to the 9-1-1 governing bodies within 60 days of receipt.
- (3) (c) (II) The Commission may expend up to 4% of the funds collected for actual costs to administer the program.
- (3) (c) (III) The Commission shall establish a formula for distribution of the funds collected (minus the allowed administrative costs), based on the number of concurrent sessions at the PSAPs associated with each 9-1-1 governing body. A concurrent session is a channel for an inbound simultaneous 911 request for assistance (i.e. one concurrent session equals one 9-1-1 line).
- (4) As part of its annual report to the general assembly, the Commission shall report on the 9-1-1 surcharge.
- (5) This surcharge does not apply to wireless prepaid telecommunications services.
- Section 102.5 - Wireless Prepaid Surcharge. Entire section amended. Substantive changes:
  - The wireless prepaid surcharge (previously 1.4% collected at point of sale of wireless prepaid telecommunications services) is now a flat rate per transaction.
  - The rate is set annually by the Commission by Oct 1 to take effect the following January 1.
  - The Commission shall set the rate based on the average emergency telephone charge in the state, plus the state 9-1-1 surcharge rate.
  - Providers providing federal Lifeline services will continue to pay whatever they had agreed to pay previously as part of their eligible telecommunications carrier certification by the Commission. The Commission can change these agreements no more than annually. By Oct 1, 2021, the Commission must set the rate for these providers at 1.6%. In subsequent proceedings, this rate must not be set higher than 1.9%.

- Section 103 - Remittance of surcharges. Entire section repealed and re-enacted. Substantive changes:
  - Service suppliers (telecommunications carriers) shall cooperate with governing bodies to provide a reasonable number of randomly selected service addresses for verification of collection and remittance at no charge.
  - Either the governing body (in the case of emergency telephone charges) or the Commission (in the case of either emergency telephone charges or the state 9-1-1 surcharge) will charge a 15% penalty plus one percent each month for overdue remittances.
  - Governing bodies may conduct audits of providers at the governing body's expense regarding collection and remittance of emergency telephone charges. The Commission may conduct audits of providers regarding collection and remittance of either or both emergency telephone charges and the state 9-1-1 surcharge. The Commission may pay for audits of the providers out of the 4% administrative retention it is allowed to keep of state 9-1-1 surcharge funds collected.
  - Governing bodies and the Commission must have audit and appeals procedures established prior to conducting audits.
  - Penalties and interest collected by the Commission shall be deposited in the 911 surcharge trust cash fund for distribution to the governing bodies.
- Section 104 - Use of funds collected. The bulk of this section was revised. Substantive changes:
  - The list of allowable uses was revised somewhat. There are two lists of allowable expenses. When all expenses in the first list have been paid for, then expenses in the second list may be paid for.
    - The first list:
      - Costs associated with the lease or purchase, installation, engineering, programming, maintenance, monitoring, security, planning, and oversight of equipment, facilities, hardware, software, and databases used to receive and dispatch 9-1-1 calls.
      - Charges of the Basic Emergency Service Provider (the 9-1-1 system service provider that is certified by the Commission and has a tariff on file to provide basic emergency services)
      - Emergency notification services costs
      - Provision of emergency medical services by phone
      - Radio equipment in the PSAP
      - Training for PSAP personnel
      - Administrative costs for operation of the emergency telephone service and the emergency notification service.
      - Membership fees for state or national industry organizations supporting 911

- Other costs directly related to the continued operation of the emergency telephone service and the emergency notification service
  - The second list:
    - Public safety radio equipment outside the PSAP
    - Personnel costs necessarily incurred for a PSAP or the governing body in the provision of emergency telephone service.
- Section 105 - Immunity of providers. Entire section amended. Substantive changes:
  - Previously, paragraph (1) provided limited immunity to telephone service providers for provision of 9-1-1 service, including location information for enhanced 9-1-1. The revision updates the language to that paragraph, and adds paragraph (2), which also provides limited immunity to other types of providers providing services to PSAPs (example: cybersecurity services).
- Section 106 - Disclosure of MLTS 911 capabilities. Repealed and replaced with Section 107.
- Section 107 - 911 dialing capabilities of MLTS.
  - Requires that MLTS operators meet all federal law and regulations regarding 911 dialing capabilities for MLTS.
  - Requires the Commission to establish an online portal for reporting violations of federal law and regulations for MLTS 911 dialing capabilities, and to relay reports of violations to the appropriate federal agency(ies).

## **Detail By Section**

### Section 100.2: Legislative Declaration

- 2020: Created.

### Section 100.5: Legislative Declaration

- 1997: Created.
- 2001: Whole section amended.
- 2004: Amended (1) and (3)
- 2020: Entire section repealed and replaced with Section 100.2.

### Section 101: Definitions

- 1981: Section created.
- 1985: (1) amended and (2.5) added.
- 1997: (1), (2), (7), (8), and (9) amended; (1.3), (1.7), (6.5), (6.7), (10)-(14) added.
- 2001: (1) amended; (1.1), (1.2), (4.5), and (4.6) added.
- 2002: (1.5) added
- 2004: (1.6) added; (13) and (14) amended.
- 2008: (3), (7), and (8) amended; (4.3) added.
- 2010: (5.5) added
- 2020: Entire section repealed and re-enacted

#### Section 102: Imposition of Charge

- 1981: Section created.
- 1985: (1) amended
- 1990: (2) and (3) amended
- 1997: (1)(b), (2), (3), and (7) amended
- 2004: (1)(a) amended
- 2008: (2)(a), (2)(c), (5), and (6) amended
- 2010: (2)(e) added
- 2020: Entire section repealed and re-enacted

#### Section 102.3: State 9-1-1 Surcharge

- 2020: Section created

#### Section 102.5: Prepaid 911

- 2010: Entire section added.
- 2020: Entire section amended.

#### Section 102.7: TRS Fee

- 2016: Entire section added.
- 2020: (2)(b) and (3)(a) amended.

#### Section 103: Remittance of 911 charges

- 1981: Entire section added.
- 1990: (1) and (2) amended
- 1997: (3) amended
- 2008: (1) and (3)(a) amended
- 2020: Entire section repealed and re-enacted

#### Section 104: Use of funds

- 1981: Entire section added.
- 1985: (2) and (3) amended
- 1992: (2) amended
- 1995: (2) amended
- 1997: (2) and (3) amended; (4) added
- 2002: (2)(a)(I)(C) and (2)(a)(I)(D) amended; (2)(a)(I)(E) added
- 2004: (2) amended
- 2008: (5) added
- 2020: (1) and (2)(b) repealed and (2)(a) and (3) amended

#### Section 105: Immunity

- 1997: Section added.
- 2020: Entire section amended.

Section 106: MLTS Requirements

- 2001: Section added.
- 2020: Section repealed and replaced with 107

Section 107: MLTS Requirements

- 2020: Section created, replacing Section 106.