

# Legislative Council Service

## Information Memorandum

DATE: November 17, 2010

**DISCUSSION DRAFT**

TO: Government Restructuring Task Force Members

FROM: Kim Bannerman

SUBJECT: DEPARTMENT OF PUBLIC SAFETY — SECTION-BY-SECTION  
EXPLANATION

Following is a section-by-section explanation of the proposed new department of public safety (DPS). The bill moves the homeland security and emergency management department and the fire marshal division of the public regulation commission into the DPS. It also moves oversight of the Enhanced 911 Act from the local government division of the department of finance and administration (DFA) into the DPS. The bill significantly amends the Enhanced 911 Act to allow the 911 surcharge to apply to new phone service technologies and prepaid calling cards. It also provides for development of a statewide enhanced 911 system utilizing technologies provided by the department of information technology (DoIT). The previous version of this bill moved the motor transportation division of the DPS to the department of transportation. After discussion on that topic at the last meeting, that part of the bill has been removed, and, accordingly, the motor transportation division will remain in the DPS. Any opinions expressed are those of the author and do not necessarily reflect the opinions of the New Mexico legislative council or any other member of its staff. Note that amendatory sections that are cleanup without substantive changes are not discussed.

**Section 5 (pages 8-9). Purpose of the department.** This section adds homeland security and emergency management functions to the DPS's purpose. With new language bolded, the section provides that the purpose of the DPS Act is to:

establish a single, unified department to consolidate law enforcement, safety **and homeland security and emergency management** functions in order to provide better management, real coordination and more efficient use of state resources and manpower in responding to New Mexico's public safety **and homeland security and emergency management** needs and problems and to improve the professionalism of the state's law enforcement and investigative functions and personnel **and the state's homeland security and emergency management functions and personnel**.

**Section 6 (page 9). Department created.** This section provides the structure of the DPS, with new organizational units bolded:

- A. the New Mexico state police division;
- B. the special investigations division;
- C. the training and recruiting division;
- D. the technical support division;
- E. the administrative services division;
- F. the motor transportation division;
- G. the information technology division;
- H. the homeland security and emergency management division;**
- I. the fire marshal division; and**
- J. the enhanced 911 division.**

**Section 7 (pages 9-14). Secretary's duties and powers.** Language was added to ensure that the secretary of public safety is the coordinating official of all departments and agencies and their employees when emergencies are declared by the governor.

**Sections 12 through 29 (pages 22-53).** These sections all deal with emergency situations. The homeland security and emergency management division of the DPS remains the primary authority and coordinating official when dealing with emergencies in the state.

**Sections 30 through 36 (pages 53-59).** These sections move all the fire marshal division duties from the public regulation commission to the DPS, including the fire protection fund.

**Section 37 (pages 59-66). Enhanced 911 Act definitions.** This section amends certain

definitions and adds new definitions, including:

A. 911 emergency surcharge — amended to include phone services that use an internet connection to make and receive calls and other new technology used for phone services;

F. communication service — added to ensure that new technology used for phone services are covered by the act;

J. division — changed from the local government division of the DFA to the enhanced 911 division of the DPS;

K. emergency services internet protocol network — added to the definitions section to ensure that the act deals with new technology such as internet-based public communication systems;

L. enhanced 911 system — amended to include new technology (emergency services internet protocol network and next generation 911 systems);

R. interconnected voice over internet protocol service — added to ensure that the act covers phone services that use an internet connection to make and receive calls; and

T. next generation 911 technology — allows for the use of new technology developed to make 911 systems more efficient and compatible with phone services that are non-traditional.

**Section 38 (pages 66-68). Imposition of the 911 emergency surcharge.** This section is amended to include all new technology used for phone services, including interconnect voice over internet protocol service. This amendment will ensure that the surcharge applies to the users of these new technologies. Also, the section clarifies how to determine if the primary place of use of the service is New Mexico to comply with federal law.

**Section 39 (pages 68-70). Prepaid wireless communication surcharge.** This section enacts a new 911 emergency surcharge for prepaid phone cards. The surcharge is one and eight-tenths percent of the cost of the prepaid service.

**Section 41, Subsection H (page 74). Enhanced 911 fund.** This section is amended to allow money in the fund to be used by the enhanced 911 division, in conjunction with the DoIT, to develop and provide for a statewide enhanced 911 system.

**Section 45 (pages 77-78). Statewide enhanced 911 system.** This is a new section

requiring the enhanced 911 division of the DPS to work with the DoIT to develop and implement a statewide enhanced 911 system. It requires the DoIT to provide the technical infrastructure needed for the development of such a system utilizing next generation 911 technology and an emergency services internet protocol network. In addition, this section mandates that all locally controlled public safety answering points connect to the statewide system when it becomes fully operational.

**Section 50 (pages 82-84). Temporary provision; transfers.** This section is a standard transfer section, and it transfers functions, appropriations, property and contractual obligations from the homeland security and emergency management department, the fire marshal division of the public regulation commission and the local government division of the DFA relating to the Enhanced 911 Act to the DPS.

**Section 51 (page 84). Temporary provision; recompilation.** This section moves the sections establishing the firefighter training academy and fire marshal division out of the Public Regulation Commission Act into the DPS Act.

**Section 52 (page 84). Repeal.** This section repeals the Homeland Security and Emergency Management Department Act.