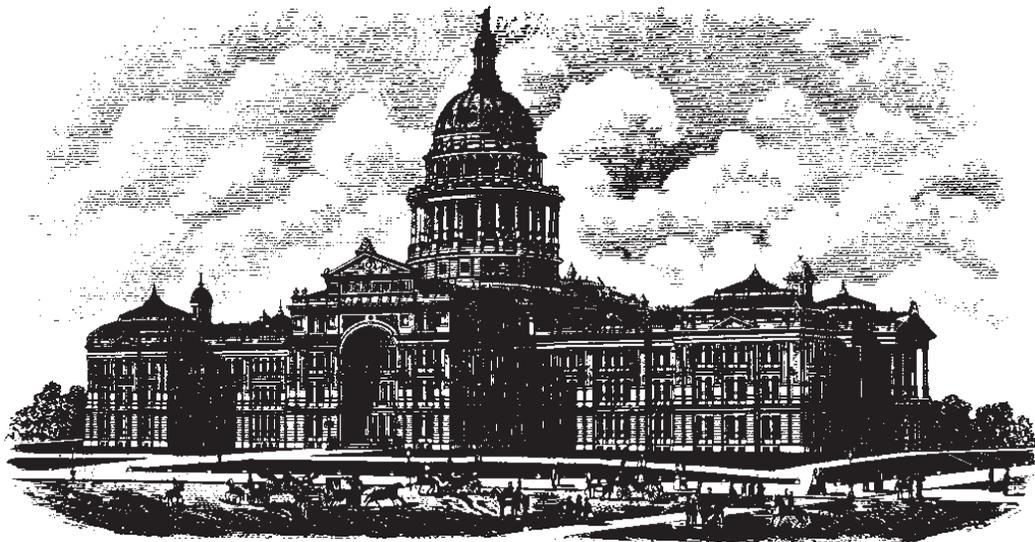


Sunset Advisory Commission



TEXAS STATE CAPITOL BUILDING

E.E. Davis architect

Advisory Commission on State Emergency Communications



Staff Report

1998

SUNSET ADVISORY COMMISSION

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In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 10-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

**ADVISORY COMMISSION ON STATE
EMERGENCY COMMUNICATIONS**

SUNSET STAFF REPORT

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EXECUTIVE SUMMARY

Executive Summary

The Advisory Commission on State Emergency Communications assists local governments in providing 911 telephone service and, in partnership with the Texas Department of Health, operates the State's poison control information telephone network. The Commission's 911 services are limited to delivery of 911 calls to answering points — not dispatch of emergency services — and are provided through regional councils of governments (COGs). The Commission has no authority over Emergency Communication Districts and cities that have chosen to not be part of the State 911 system. To carry out its 911 and poison control responsibilities, the Commission is staffed by 20 employees and oversees four telephone consumer fees that collected \$38 million in fiscal year 1997.

Sunset staff looked at the structure of the State's emergency communications system and the Commission's efforts to oversee the system. The review focused on the Commission's ability to provide accountability. Staff also examined ways to increase the efficiency of the 911 system and to maximize its resources. The following material describes the results of the review.

1. Continue the Advisory Commission on State Emergency Communications for 12 Years and Assign it the Role of Speaking for the State's 911 System.

- The Commission functions to ensure statewide 911 and poison control services. Without State funding and oversight, rural areas may not have access to emergency communications.
- The Commission also performs the role of addressing changes in technology and the telephone regulatory environment that affect 911 service for the whole state.
- While other agencies perform functions that compliment those of the Commission, no compelling reason could be found to merge the Commission with another agency. The review examined the Public Utility Commission, Department of Public Safety, General Services Commission, and Texas Department of Health, but did not find a suitable candidate for consolidation.

Recommendation

- Continue the Advisory Commission on State Emergency Communications for 12 years.
- Assign the Commission the role of setting statewide direction for 911.

2. Change the Commission's Membership to Better Support its Present Functions and Provide Public Representation.

- The Commission has 16 members — 12 appointed and four ex officio members. Appointed members include representatives of the three largest telephone companies; a city, a county, and an Emergency Communication District; and six non-specified appointments. Ex officio representatives include the Department of Public Safety, Criminal Justice Policy Council, Texas Department of Health, and the Texas Association of Regional Councils.

- While the Commission was created to establish a statewide 911 system, its mission has evolved to maintaining the system. At the same time, the telephone industry, which sells 911 products and services, has become more complex with the introduction of new technology and increased competition due to deregulation.
- Despite these changes, the Commission's membership has not been modified and still includes telephone company representatives, designees of state agencies that do not provide needed expertise, and an association.
- Strategic plans submitted by COGs are not contractual documents, but instead are financial planning documents. These plans do not include standard contractual provisions, such as useful performance measures, sanctions, subcontracting guidelines, or competitive purchasing requirements.
- The strategic planning process does not provide the Commission with useful information to make decisions on spending the State's 911 funds. Much of the financial information received by the Commission may be inaccurate and, despite the name, the strategic plans do not provide information on each COG's vision of 911 service.

Recommendation

- **Reduce the size of the Commission to nine voting members plus three non-voting, ex officio members.**
- **Restructure the Commission to include five public members and one member each from a COG governing body, Emergency Communication District, county government, and municipal government. Ex officio members would represent the Public Utility Commission, General Services Commission, and Texas Department of Health.**

3. Restructure the Funding of the State's 911 Program to Improve Accountability and Strategic Planning.

- Telephone customers fund the State's 911 programs through three fees: one remitted to the State Treasury, subject to the appropriations process; one remitted directly to the COGs; and one remitted to the Commission. The Commission oversees a strategic planning process that requires COGs to submit five-year plans detailing how they will spend funds to implement 911 service.
- The Legislature only controls 21 percent of the State's 911 funds through the appropriations process. This level of oversight limits the Legislature's ability to strategically plan and set priorities for the State's 911 program.

Recommendation

- **Require all emergency fees to be deposited in a dedicated account in the State Treasury and subjected to the legislative appropriations process.**
- **Clarify that COGs' regional plans include two years of financial operating information and five years of strategic planning information.**
- **Require the Commission to use strategic planning information provided by COGs to prepare a State 911 strategic plan.**
- **Require the Commission to develop contracts, which include standard contractual provisions, with COGs defining how 911 funds will be spent.**

4. Maximize Revenue by Improving Collection of the State's Emergency Communication Fees.

- For all but one of the emergency fees, telephone companies are permitted to hold the State's revenue for 60 days and earn a 2 percent administrative fee. To ensure proper and timely remittance, the Commission audits telephone companies and assesses late payment penalties. The Comptroller's Office may audit for emergency fees when conducting other telephone company audits.
- Collecting emergency fees costs the State's emergency communications programs more than \$1 million annually because of long remittance periods and high administrative fees.

- Audit coverage of telephone companies is insufficient to ensure proper fee remittance.
- Poor enforcement of late payment penalties has resulted in delinquent fee remittance and loss of fine revenue.

Recommendation

- **Shorten remittance periods to 30 days.**
- **Reduce administrative fees to 1 percent.**
- **Transfer auditing responsibility and authority to assess and collect late payment penalties to the Comptroller of Public Accounts.**

Fiscal Impact Summary

These recommendations are intended to enable the Commission to better serve its function within existing resources while maximizing revenue for 911 and poison control services. Reducing the Commission's size would result in a small savings to the General Revenue Fund due to decreased travel and other expenses of members. Bringing all emergency fees into the State Treasury would increase interest revenue available to 911 and poison programs and create a one-time gain in the amount of funds available for certification in the General Revenue Fund. Finally, the recommendation to improve collection of emergency fees would result in a gain to a dedicated account in the General Revenue Fund because of shorter remittance periods and lower administrative fees. This recommendation would also create a savings to the General Revenue Fund because the Commission would no longer need to contract for telephone company audits. The total fiscal impact of these recommendations is \$4,219,500 in the first year.

APPROACH AND RESULTS

Approach and Results

Approach

The Advisory Commission on State Emergency Communications strives to improve public safety by assisting local governments to build and maintain 911 emergency telephone systems and by providing statewide telephone access to poison control centers. To achieve its mission, the Commission oversees the collection of \$38 million annually in telephone subscriber fees; reviews, approves, and funds local regional plans for 911 services; and manages, in conjunction with the Texas Department of Health (TDH), the Poison Control Network.

Through its enabling statute, the Commission's role in the 911 system is limited to telephone call delivery to locally-run answering points. The Commission has no responsibility over dispatch of emergency services, such as police, medical services, and firefighters. The Commission is also limited to overseeing 911 services operated by regional councils of governments (COGs). The Commission has no authority over 911 services provided by the 27 Texas cities and 24 county-wide Emergency Communication Districts that operated 911 systems before enactment of the Commission's statute and have chosen to not be a part of the State system.

The Legislature created the Commission in 1987 with a goal of ensuring that all parts of the state be covered by 911 service by 1995. The Commission met this mandate in September 1997 when Texas became one of the first states with statewide 911. Today, an estimated 8.5 million calls are made to Texas 911 answering points each year.¹

Since its creation, the Commission has experienced fundamental changes in its mission. The Commission's current role in maintaining the State's 911 system is very different from its original role of implementing the system. The Legislature has also added poison control to the Commission's responsibilities, charging it with creating and operating a poison control telephone system jointly with TDH. Deregulation and increased competition have brought further changes to the telephone regulatory environment in which 911 systems operate. The explosion in the number of local telephone providers — from just a few in a regulated monopoly environment to more than 150 providers today — challenge the Commission to ensure that all telephone companies provide subscribers with 911 access. In addition,

The Commission's mission has fundamentally changed from building to maintaining the 911 system, and operating a poison control network.

changes in telephone technology, such as wireless telephones, have had an impact on the Commission's work, particularly regarding the ability for 911 systems to locate callers.

Sunset staff considered the maturing of the Commission's responsibilities and the recent changes to the telecommunications environment when developing an approach to the Commission's review. Building on these recent developments, the Sunset review focused on improving the accountability and efficiency of the State's 911 system.

The Sunset review focused on improving the accountability and efficiency of the State's 911 system.

In structuring this agency's review, Sunset staff did not attempt to enter into the debate over the proper organization of 911 entities not under the Commission's jurisdiction. While some duplication of effort and inefficiency exists in Texas' 911 structure, each of the 27 cities and 24 Emergency Communication Districts has chosen by a vote of their populace or governing body to operate a separate 911 system. Further, the Legislature specifically exempted these entities from the Commission's jurisdiction by virtue of their status predating the Commission. Sunset staff also chose not to weigh into the current question of whether a Texas city may opt out of the Commission's jurisdiction. This question is the subject of a pending request for an opinion by the Attorney General. For the staff to support changes in the 911 systems operated by local governments is inappropriate — the powers and purposes of political subdivisions are the proper province of the Legislature.

The Sunset staff review also did not bring forth any recommendations on the Commission's poison control responsibilities because the review uncovered no major areas of needed improvements and this network is widely recognized as a national model for poison control services. While cost savings could accrue to the State by reducing the number of poison answering centers, the review noted that each of the six host-hospitals make significant in-kind contributions to their centers that reduce the cost of operation. These contributions might be lost through a reduction in the number of centers. The review also noted that because each of the six centers is specifically named in statute, a reduction of the number should be decided by the Legislature.

Review Activities

In conducting the review of the Commission, the Sunset staff:

- Worked extensively with agency staff at the Commission;
- Met with members of the Commission;
- Attended public meetings of the Commission;

- Worked with staff of the State Auditor’s Office, Legislative Budget Board, State Comptroller’s Office, and House Appropriations Committee;
- Met with key legislators and their staff;
- Attended the agency’s legislative appropriations hearings in the 1997 legislative session as well as an appropriations request hearing for the 1999 session;
- Attended a meeting of the House State Affairs Committee Interim Subcommittee on Regional Planning Commissions;
- Met with staff of the Public Utility Commission, General Services Commission, Department of Health, Criminal Justice Policy Council, and Department of Public Safety;
- Conducted interviews with and solicited written comments from representatives of councils of governments, Emergency Communication Districts, cities with 911 systems, poison control centers, and the telephone industry;
- Made field visits to the Austin Police Department’s 911 answering center, North Texas Poison Center in Dallas, Heart of Texas Council of Governments, McLennan County Emergency Assistance District, Greater Harris County 911 Emergency Network, and Houston-Galveston Area Council;
- Reviewed state statutes, court decisions, legislative committee reports, previous legislation, federal statutes, federal legislation, Attorney General opinions, and dockets of the Public Utility Commission and the Federal Communications Commission;
- Reviewed reports by the State Auditor’s Office, the Texas Performance Review, Legislative Budget Board, and House Appropriations Committee;
- Reviewed agency documents, reports, publications, and internal audits; and
- Examined the structure and funding mechanisms of emergency communication systems in other states.

State support of
emergency
communications is
necessary for their
continuation.

Results

The Sunset review of the Commission started by asking the threshold question of whether the functions performed by the agency continue to be needed. The Commission functions to help protect public safety by assisting regional governments to upgrade and maintain 911 systems and by providing

telecommunications network services to poison control centers. The Sunset staff concluded that the State's support of emergency communications is necessary for their continuation and that statewide 911 and poison control services save many lives and return many times their investment costs to Texans every year.

Once the Commission's functions were deemed necessary, the focus of the review shifted to examining the organizational structure used by the State to provide these functions. Sunset staff evaluated the Commission with an eye on whether some or all of its functions could be consolidated within another state agency. The Commission shares its public safety goal with the Department of Public Safety and Texas Department of Health and its interest in telecommunications with the Public Utility Commission and the General Services Commission. However, no agency directly duplicates the functions of the Commission and each agency has significant drawbacks that would impair its ability to adequately serve the State's overall 911 needs.

The Commission's unusual composition impedes its effective decisionmaking.

Because the review found no suitable candidate for consolidation and because of the uniqueness of the Commission's functions, staff determined that the Commission should remain an independent agency. A full discussion of the consolidation options can be found in **Issue 1**.

In reviewing how the Commission carries out its mission, staff focused on recent reports and other evidence of a lack of accountability and efficiency in the 911 system. The State Auditor's Office, Texas Performance Review, and this review all noted problems in how some regional councils of governments account for and spend State 911 funds. In seeking ways to improve the accountability and efficiency of the 911 system, the review examined the composition of the Commission, the method by which the Commission levies and distributes its telephone-based fees, and ways to maximize the revenue from these fees.

The Commission's structure is unique among state agency boards in its size and composition. With 16 members, the Commission is large for an agency with its level of responsibilities. The composition of the Commission — with three telephone industry representatives, a representative of a trade association, and three state agency representatives — is also unusual for state governing bodies. While this structure benefitted the work of the Commission when it was created to rapidly build a statewide 911 system, the structure impedes the efficient work of the Commission today. The review looked at how to structure the Commission to improve its effective decisionmaking and **Issue 2** addresses its structure.

The Commission oversees a complex 911 system that relies on three separate funding sources. Even though each funding stream is based on fees assessed

on telephone users, each fee is collected and remitted in different ways and only one fee is held in the State Treasury and appropriated by the Legislature. To control the spending of State 911 funds, the Commission requires COGs to submit five-year spending plans for approval. The review found that these plans do not contain standard contractual provisions, but are simply loose agreements between the State and COGs. The review concluded that the accountability of COGs to the Commission and of the Commission to the Legislature would be improved by holding all the fees in the State Treasury. The review also found that accountability and planning would be improved by having the funds allocated through the legislative appropriations process and by creating and enforcing contracts between the Commission and COGs. **Issue 3** gives further detail about how this process could be improved.

The examination of the Commission's funding structure also yielded information about ways in which emergency communications revenues could be increased by improving fee collection. In addition to the three 911 fees, the Commission also collects a telephone-based poison control fee. All four fees are paid by telephone users and collected by telephone companies. The statute that creates these fees, however, established differences in how the fees are remitted by the telephone companies. The review found that resolving the differences in remittance periods and in administrative fees paid to telephone companies could maximize emergency communications funding. The review also examined the methods by which the Commission audits the phone companies for compliance with remittance laws. **Issue 4** discusses these suggested improvements to the Commission's funding structures.

Accountability of the 911 system would be improved by holding all State 911 fees in the State Treasury and by allocating the funds through the legislative appropriations process.

Recommendations

1. Continue the Advisory Commission on State Emergency Communications for 12 years and Assign It the Role of Speaking for the State's 911 System.
2. Change the Commission's Membership to Better Support its Present Functions and Provide Public Representation.
3. Restructure the Funding of the State's 911 Program to Improve Accountability and Strategic Planning.
4. Maximize Revenue by Improving Collection of the State's Emergency Communication Fees.

Fiscal Impact

The recommendations in this report would improve the agency's ability to manage the State's 911 and poison control services with existing resources. Reducing the Commission's membership from 16 to nine members would

result in an estimated annual savings to the General Revenue Fund of \$1,500 due to savings in travel expenses.

Restructuring the funding of the State's 911 program by bringing all of the emergency communication fees into the State Treasury and subjecting them to the appropriations process would have a positive fiscal impact to the State. This recommendation would increase the amount of interest revenue available to the State's emergency communication programs by \$80,000 in fiscal year 2000 and \$144,000 during each subsequent fiscal year. A one-time gain in the amount of funds available for certification in the General Revenue Fund of \$3.6 million would also result from this recommendation.

Improving collection of the State's emergency communication fees would maximize revenue available to the 911 and poison control programs. An annual gain of \$479,500 would result from decreasing the time telephone companies may hold emergency communication fees and reducing the administrative fees the companies are allowed to keep. Improving audit coverage and late payment penalty collection by transferring these responsibilities to the Office of the Comptroller would also have a positive fiscal impact, but the amount of increased revenue cannot be estimated. However, the Commission would no longer need to contract for telephone company audits and this would result in a savings to the General Revenue Fund of \$58,500.

The recommendation to continue the Commission for 12 years would require its annual appropriation of approximately \$13.6 million to continue.

Fiscal Year	Gain to Dedicated Account in the General Revenue Fund	Savings to Dedicated Account in the General Revenue Fund	Change in Number of FTEs from Fiscal Year 1999
2000	\$4,159,500	\$60,000	0
2001	\$623,500	\$60,000	0
2002	\$623,500	\$60,000	0
2003	\$623,500	\$60,000	0
2004	\$623,500	\$60,000	0

¹ Information based on public safety answering point survey conducted by the Advisory Commission on State Emergency Communications in November 1997. Total compiled by Sunset staff and represents the entire Texas 911 system, not just the centers operated by the Commission.

ISSUES

Issue 1

Continue the Advisory Commission on State Emergency Communications for 12 Years and Assign it the Role of Speaking for the State's 911 System.



Background

The Advisory Commission on State Emergency Communications assists local governments in providing 911 emergency telephone service. The Commission also, in partnership with the Texas Department of Health (TDH), operates a poison control telephone service throughout Texas.

Texas' 911 system is operated by local governments through regional councils of governments (COGs). Texas cities and counties which established their own 911 systems before the creation of the Commission in 1987 continue to operate their systems outside of the Commission's jurisdiction and funding. By statute, the Commission's role is limited to providing only the telecommunications aspects of 911 — not emergency services or their dispatch. To fund the State's 911 system, the Commission assesses fees on consumer telephone bills. The Commission also uses funds raised by a surcharge on intrastate long distance to equalize 911 service across the state.

The Commission administers the State's poison control service system by establishing the telecommunication network that links poison control answering centers and by providing funding for the system through a second intrastate long-distance surcharge.

In a Sunset review, continuation of an agency and its functions depends on certain conditions being met, as required by the Sunset Act. First, a current and continuing need should exist for the state to provide the functions or services. In addition, the functions should not duplicate those currently provided by any other agency. Finally, the potential benefits of maintaining a separate agency must outweigh any advantages of transferring the agency's functions or services to another agency. The evaluation of the need to continue the Commission and its functions led to the following findings.

Findings

▼ **Continued emergency communication is important to the citizens of Texas.**

- ▶ The State's 911 system provides a critical, life-saving function. Through the provision of a single, universal emergency telephone number, access to critical emergency services for Texans is simplified, made uniform across the state, and made faster. An estimated 8.5 million calls to 911 are made in Texas each year.¹ Without the single, uniform emergency number, 911, many observers believe that, in many cases, emergency services would have been delayed and lives would be lost each year.
- ▶ The Commission also provides needed poison control services. In fiscal year 1997, Texas' Poison Center Network answered more than 335,000 calls concerning exposures to toxic substances and prescription drugs.² More than half of these poison exposures occurred in children age five years and under.³ Because most calls are safely handled in the caller's home, an effective poison network conserves costly, emergency medical services for more serious cases. National studies estimate that, for every dollar invested in poison center services, communities save between \$6 and \$9 in unnecessary ambulance and emergency room costs.⁴

Without State funding and oversight, 911 service may not continue to exist in rural Texas.

▼ **State funding and oversight of emergency communications is needed to ensure that statewide 911 coverage and poison control services are maintained.**

- ▶ Because of difficulty in raising funds and the high cost of service, 911 service may not continue to exist in all parts of the state without adequate State funding and oversight. Under the Commission's direction, 911 service is available in all 254 Texas counties and Texas became one of the first states to establish a statewide 911 system.⁵ Statewide coverage is important not only to residents of rural areas but also because of the mobile nature of Texans — were 911 services limited to urban areas, motorists traveling in rural areas could find themselves without needed emergency services.

While 27 Texas cities and 24 counties provide 911 services without State assistance, these local governments represent

Texas' populous, urban areas where funding is available and the per-person cost of service is low. In contrast, the Commission's 911 service areas are largely rural areas, where, because of the low density of population, the ability of the citizens to provide 911 funding is diminished and the cost of providing 911 services is high. For example, 18 of the state's 24 COGs currently require supplemental funding through the Commission's equalization surcharge. The map, *The Commission's 911 Service Areas*, shows the Commission's jurisdictional areas that cover 90 percent of Texas' land mass but only 37 percent of the state's population.⁶

- ▶ State oversight of 911 is also needed. The Commission establishes uniform standards for COGs to follow in operating 911 answering centers and enforces these standards through a detailed, regional planning process. The Commission then audits the spending records of COGs to ensure that 911 services are actually implemented according to the Commission's rules and standards. Without these standards and accountability of local governments to the Commission, State 911 funding could be diverted to other pressing needs, thereby lowering 911 services.
- ▶ State funding and control of the Poison Control Network is needed to ensure that all Texans have access. Before creation of the network, one county and one university hospital provided these services. Because of the high cost of operation, the county center at Parkland Memorial Hospital in Dallas was forced to restrict access to callers from other counties, which, in turn, overloaded the university-based center at the University of Texas Medical Branch in Galveston.

The Legislature's establishment of a surcharge on intrastate long-distance calls ensured adequate funding for poison control services. With this funding, the Commission, in partnership with TDH, has established six poison control centers across the state and has built a telephone network to link the centers. State coordination of the centers ensures that poison calls are answered on a 24-hour-a-day basis and that calls going to an overloaded center are automatically rerouted to a less busy answering point. Today, the Texas Poison Control Network is a model for the nation, but without continued State funding and oversight, the network would not continue to exist.

The Texas Poison Control Network, which is a national model, is dependent on continued State funding and oversight.

The Commission's 911 Service Areas



▼ **State oversight is also needed to address the effects of changes in technology and telephone regulation on the 911 system.**

- ▶ As a result of changes in technology and in the telecommunications industry, the Commission has assumed a role in addressing challenges that face the entire 911 system — both for areas under the State’s jurisdiction and the cities and counties that are not. While this role is not explicitly envisioned in the Commission’s statute, a single spokesperson is needed so that regulatory agencies do not receive mixed messages from several sources.
- ▶ Telephone technology changes — particularly the growth in use of wireless phones — has an important impact on 911 systems. Because of their mobile nature, wireless phones present a problem for 911 call takers in ascertaining a caller’s location. To address this problem, the Commission has become a party to Federal Communications Commission (FCC) rulemakings and has served as a resource to the Texas Legislature on wireless issues. Based partly on the Commission’s input, the FCC issued a rule to require wireless providers to transmit location information to 911 systems if state or local funding is available to help pay the cost of this location information.

The Commission also provided input to the Legislature, in 1997, when it considered and passed legislation that provided funding for implementing wireless phone location information systems. The Commission continues to actively test wireless phone information systems and plan for the deployment of a wireless solution in the 911 network.

- ▶ State deregulation of the telephone industry has also greatly affected the 911 system. When the Commission was formed, Southwestern Bell and GTE served most of Texas in a regulated, monopoly environment. Today, many Texans may choose among some 150 alternative telephone providers operating in Texas, though not in all regions of the State.⁷ This deregulated environment creates a number of challenges for the 911 system, primarily in ensuring that all of these new telephone companies provide their customers with access to 911. To meet this need, the Commission formed a task force of 911 professionals, both inside and outside of the State

Changes in telephone technology and regulation have put the Commission in the role of speaking for the entire 911 system — not just the parts under its jurisdiction.

system, to draft model contracts for new providers and to ensure the continued provision of 911 access.

- ▶ Among the future challenges created by the new competitive environment in the telephone industry are issues related to phone numbering schemes that no longer reflect geographic boundaries. Determining the location of callers and the appropriate 911 answering point is simplified by having telephone numbers tied to geographic areas. Under telephone deregulation and the increase in the number of phone lines being used for computer modems, fax machines and wireless phones, phone numbers are no longer tied to political subdivision boundaries.

One example of this problem for 911 systems is number portability, a key issue in the competitive environment, where phone numbers follow customers as they change phone companies and move across cities and the state. Another example is number conservation, where phone numbers are assigned to telephone companies in small units that no longer represent areas of cities. To address these types of issues, the Commission represents the 911 system before the Texas Public Utility Commission and the FCC.

While 28 states have placed 911 functions in a state agency, Texas is one of only two states that use a separate state agency.

▼ **While organizational structures vary, most states have an entity like the Commission that sets statewide policy for 911.**

- ▶ Every state has some type of 911 system and 91 percent of the U.S. population has access; however, only 15 states, including Texas, have complete statewide coverage.⁸ Twenty-eight states have organized their 911 functions at a state agency level.⁹ These state agencies function to either directly provide 911 services or to coordinate the local provision of 911. Other states leave 911 administration to local authorities.
- ▶ Texas is one of only two states that uses a separate, independent agency for 911 services.¹⁰

▼ **The review did not find workable alternatives for combining the Commission with another agency that would achieve substantial cost savings or other tangible benefits.**

- ▶ Operating efficiencies could result from consolidating the Commission's staff with a larger state agency that has similar functions. Eliminating administrative overlap by combining support functions such as accounting, payroll, personnel, and computer support could result in savings. However, these savings would not be so great as to warrant consolidation.
- ▶ Analysis of whether the Commission should remain an independent agency usually focuses on consolidating the Commission with one of four other state agencies, the Public Utility Commission, Department of Public Safety, General Services Commission, and the Texas Department of Health, to achieve a level of consolidated functions that would benefit the 911 system. The Sunset staff review did not find any of these agencies to be suitable for consolidation with the Commission. A discussion of the pros and cons of consolidation with each of these state agencies is provided in the following material.

Public Utility Commission

Because the work of the Commission is heavily involved with telecommunications, the review examined the Public Utility Commission (PUC), as the state authority on telephone regulation, as a consolidation option. Although PUC has knowledge of and regulates local exchange telephone companies, it has few regulatory controls over wireless companies. Even though this technology is relatively new, 911 calls from wireless phones already account for about 30 percent of all 911 calls.¹¹ This percentage is expected to grow rapidly and indicates that PUC may not always be able to provide the type of telecommunications expertise that the 911 system requires.

PUC also has only limited experience in dealing with local governments and in monitoring purchasing and contracting functions. In addition, PUC is a regulatory agency principally concerned with setting rates for regulated utilities and the addition of a program management function, such as

While operating efficiencies could result from consolidating the Commission with a larger state agency, savings do not warrant consolidation.

maintaining the 911 system, would not directly fit with the agency's primary mission.

Department of Public Safety

The Department of Public Safety (DPS) is the State police agency. In this sense, DPS has a natural connection to 911 as a public safety function. However, as defined by statute, the State's 911 program is focused on telephone call delivery to 911 answering points — not on dispatch of public safety responders. As such, DPS' experience and relations with local police departments and sheriff's offices are of limited utility to the 911 system. DPS also has limited experience in directing the purchasing and planning functions of political subdivisions that make up a large part of the Commission's work.

General Services Commission

Sunset staff examined the General Services Commission (GSC) as a possible consolidation option because it offers both telecommunications expertise and knowledge of contracting and purchasing systems. However, the review found that GSC has limited knowledge of overseeing program functions carried out by political subdivisions, and that the 911 system's intergovernmental focus might be lost in an agency that primarily provides internal services to other state agencies.

Department of Health

The final agency considered as a possible consolidation option, the Texas Department of Health (TDH), co-manages the Poison Control Network with the Commission and has a Bureau of Emergency Management. However, TDH does not have any direct connections with a 911 program. In addition, TDH's Bureau of Emergency Management is largely focused on medical providers and trauma care operation — not on telephone network management that the Commission provides. TDH's partnership with the Commission for operation of the Poison Control Network is successful largely because the Commission's role is to focus on the telecommunications aspects while TDH provides the medical knowledge.

Clarifying the Commission's role in speaking for the 911 system would ensure that it acts on behalf of the state as a whole.

▼ **Designation of the Commission as the State authority on 911 would clarify its statewide leadership role.**

- ▶ Although the Commission currently functions in a role of representing the whole 911 system before regulatory bodies

such as the FCC and PUC, the statute does not clearly assign the Commission this responsibility. Clarifying the statute would ensure that the Commission represents the whole 911 system and that it should be active on behalf of the state as a whole in regard to regulatory changes that could affect service.

- ▶ The Commission has also played an active role in coordinating the whole 911 system in areas such as purchasing. For example, the Commission is currently pursuing a multi-million dollar contract for a statewide database of telephone number and location information. The Commission intends to make this database contract available to 911 authorities outside the State system.

- ▶ While the role of coordinating the whole 911 system is not explicitly assigned to the Commission, greater efficiencies and cost savings can result from these efforts — both for the system managed by the Commission and for the independent Emergency Communication Districts and cities. Because the make-up of the Commission includes representatives from within and outside of the State 911 system, it is ideally designed to speak for the entire 911 system.

Conclusion

The review of the Commission found its functions — 911 system management and poison network operation — continue to be needed in Texas and that the State has a continuing interest in providing the functions. The review examined whether these functions could benefit from consolidation into a larger agency and found that few benefits would accrue from such a consolidation. The review concluded that the 911 system would benefit from designating the Commission as the spokesperson for the 911 system.

Recommendation

Change in Statute

- **Continue the Advisory Commission on State Emergency Communications for 12 years.**

This recommendation would continue the Commission for the usual 12-year Sunset cycle and would establish a new Sunset date of September 1, 2011.

■ **Change the name of the agency to the Commission on State Emergency Communications.**

This change would clarify that the Commission is not advisory and would eliminate any confusion over its proper role in overseeing the State's 911 system.

■ **Assign the Commission the role of setting statewide direction on 911.**

This change would assign the Commission a role of coordinating and speaking for the entire 911 system — COGs, Emergency Communication Districts, and cities. In addressing federal and state regulatory bodies and devising solutions for dealing with new telephone technology, a single spokesperson is needed for the 911 system. The Commission should continue to explore areas for statewide coordination of system by gaining the voluntary compliance of 911 authorities outside of its jurisdiction. The Commission should also continue to explore cooperative purchases of 911 equipment and services across the whole 911 system to maximize economies of scale and reduce costs.

Fiscal Impact

If the Legislature continues the current functions of the Commission, using the existing organizational structure, the Commission's annual appropriations of \$13.6 million continue to be required for the operation of the agency, maintenance of the Poison Control Network, and for 911 equalization grants to the regional councils of governments.

If the Commission and its statute are abolished under the Sunset Act, the Emergency Service Fee, Wireless Service Fee, 911 Equalization Surcharge and Poison Control Surcharge would also be abolished. As a result, the State would lose \$38 million in revenue.

¹ Information based on PSAP survey conducted by the Advisory Commission on State Emergency Communications in November 1997. Total compiled by Sunset staff.

² Data provided by Advisory Commission on State Emergency Communications, July 1998.

³ *The Poison Experts: Texas Poison Center Network Annual Report – 1996*, p. 6.

⁴ *Ibid.*, p. 5.

⁵ Minnesota Department of Administration, June 1998.

⁶ Population percentage from memo from Carey Spence, Assistant Director, Advisory Commission on State Emergency Communications, August 10, 1998. Land area analysis by Sunset staff.

⁷ Advisory Commission on State Emergency Communications, *Strategic Plan 1999-2003*, June 1998, p. 13.

⁸ State of Minnesota, Department of Administration, information located at WWW.mainserver.state.ms.us/intertech/services/svnc91.html.

⁹ Information compiled by the National Association of 911 Administrators and provided by James Goerke, Executive Director, Advisory Commission on State Emergency Communications, Telephone Interview, September 29, 1998.

¹⁰ *Ibid.*

¹¹ Advisory Commission on State Emergency Communications, *Strategic Plan 1999-2003*, p. 12.

Issue 2

Change the Commission's Membership to Better Support its Present Functions and Provide Public Representation.



Background

A 16-member Commission, with 12 appointed members and four ex officio members, governs the Advisory Commission on State Emergency Communications (Commission). Of the 12 appointed members, eight are selected by the Governor, two by the Lieutenant Governor, and two by the Speaker of the House. Each appointed member serves a staggered, six-year term. The current members of the Commission, along with their statutory requirements for appointment, are shown in the textbox, *Membership of the Advisory Commission on State Emergency Communications*.

The major duties of the Commission include implementation of statewide 911 service and poison control centers, development of minimum standards for 911 equipment and operations, and approval and allocation of funds to implement regional 911 operating plans.

The Commission appoints its Chair, hires the agency's Executive Director and other staff, and has established two standing committees — Programs and Operations — to assist in managing its affairs.

The review of the Commission's structure focused on whether the current membership requirements are best suited to guide the Commission in carrying out its current mission of maintaining the 911 system.

The Commission implements and manages the State's 911 and poison control systems.

Findings

- ▼ **The Commission's composition has not been modified to reflect the change in its mission from establishing a statewide 911 system to one of maintaining the system.**
 - As originally structured in 1987, the Legislature charged the Commission with responsibility for designing and implementing a new, statewide 911 system by 1995. The Commission succeeded in creating one of the first statewide

Membership of the Advisory Commission on State Emergency Communications		
Name	Affiliation	Statutory Requirement
Governor Appointments (eight members)		
Ernest J. Carey	General Manager of Customer Services for Southwestern Bell	Representative of the local telephone service provider serving the most local access lines in Texas
Patrick A. Craven	Regional Manager of Regulatory Affairs for GTE	Representative of the local telephone service provider serving the second most local access lines in Texas
Harold Wayne Miller	Manager of Customer Services for Sprint	Representative of the local telephone service provider serving the third most local access lines in Texas
Glenda Burdick	Mayor of Rockport	Member of a municipal body
Ron Harris, Chair	County Judge of Collin County	Member of a county commissioner's court
Bill Munn, PhD	Executive Director of Tarrant County 911 District	Director of an Emergency Communication District
Eloy A. DeLaO Jr.	Director of Market Operations for Southwestern Bell Wireless	Non-specified appointment
Wayne Whiteaker	County Judge of Lamb County	Non-specified appointment
Lieutenant Governor Appointments (two members)		
David M. Sibley	State Senator	Non-specified appointment
Terry Keel	State Representative	Non-specified appointment
Speaker of the House Appointments (two members)		
Bill Carter	State Representative	Non-specified appointment
Jimmy Burson	County Judge of Briscoe County	Non-specified appointment
Ex Officio Members (four members, each of which may appoint a designee)		
Dennis Perrotta, PhD	Chief, Bureau of Epidemiology	Commissioner of Health designee
Randall K. Elliston	Commander, Capitol Police	Director of Department of Public Safety designee
Dawn Heikkila	Chief of Staff	Executive Director of Criminal Justice Policy Council designee
Jim Ray	Executive Director, Texas Association of Regional Councils	Executive Director of the major association representing regional planning commissions

911 systems in the nation.¹ To accomplish this goal, the Legislature designated several specific slots on the Commission. For example, three telephone company representatives were included on the Commission to provide the technical expertise in telecommunications systems that only telephone companies were thought to have.

The Legislature also provided for representation of state agencies by including, as ex officio members, the designees of the agency heads of the Criminal Justice Policy Council (CJPC), Department of Public Safety (DPS), and Texas Department of Health (TDH). Also included as an ex officio representative is the Executive Director of the Texas Association of Regional Councils. Representatives of local and regional government, and county commissioner's courts were also included.

- Since accomplishing its legislative goal of establishing a statewide 911 system, circumstances have resulted in a new role for the Commission — maintaining, not creating, the 911 system. These circumstances include complications to the 911 system arising from new telephone technologies, such as cellular phones, and increased competition in the telephone industry, which has fostered the creation of many new local exchange phone companies. The need for the Commission to remain as an independent state agency is discussed in greater detail in Issue 1 of this report.
- The Commission's new role of maintaining the 911 system necessitates a different structure than in the beginning, when the agency was focused on establishing the system. Telephone representatives may have been appropriate when the Commission was created. Then, a single phone company operated in each region of the state and no competition existed for the equipment and services needed by the 911 system. Today, because many phone companies are directly competing for the business of selling equipment and services to the 911 system, representation of specific telephone companies is no longer appropriate. In addition, the agency has developed its own expertise in 911 telephone systems and is no longer reliant on the knowledge provided by telephone company representatives.

The Commission's membership has not changed to reflect its on-going mission of managing the State's emergency communications systems.

The Commission's composition includes three telephone industry representatives, even though its decisions affect the annual purchase of \$30 million in telephone equipment and services.

The Commission also benefited from the knowledge of other state agencies during its start-up phase, but today the Commission is a fully-functioning state agency and the knowledge provided by two of these members is no longer needed. For instance, the DPS designee provides knowledge of police and public safety functions, but the 911 system is focused on telephone call delivery — not on emergency services or public safety functions. Similarly, the CJPC designee brings specific knowledge about the criminal justice system to the Commission, but this information is not helpful to the 911 system. The TDH representative, however, does bring needed information about the poison control system that the Commission jointly operates with TDH.

In its role of creating a statewide 911 system, the Commission also performed a legislative-type function by overseeing and approving the expenditure of 911 funds that did not go through the legislative appropriations process. The Legislature provided the Commission with members appointed by the Lieutenant Governor and the Speaker of the House, and the Commission has always had at least two legislators as members. The Commission's new role in maintaining the 911 system reduces the need for the agency to have legislatively-appointed members. Issue 3 of this report further discusses the appropriation of the Commission's revenue through the legislative appropriations process.

▼ **The current composition of the Commission impedes efficient policymaking.**

- ▶ The work of the Commission is greatly complicated by its composition and the presence of telephone industry representatives. Three members of the Commission are required by law to be employees of the three largest local telephone companies — Southwestern Bell, GTE, and Sprint.² As vendors, these companies have a direct interest in decisions of the Commission that affect the annual purchase of more than \$30 million of telephone equipment and services. Telephone companies also have an interest in how the Commission administers the State's 911 statute because the Commission's rules and policies affect the collection and remittance of 911 fees.

For example, the Commission has been involved in litigation and audits of GTE over the proper remittance of 911 fees collected by the company. These negotiations required the Commission's GTE representative to recuse himself from each meeting at which this issue was discussed. During the seven Commission meetings held in fiscal year 1998, Commission members had to recuse themselves 11 times for this and similar circumstances in which they had an interest in the Commission's decisions. In one instance, a member recused himself from the discussion and then addressed the Commission as a representative of his telephone company.³

- The Commission structure also has a unique clause reserving a seat for the Executive Director of the major association representing regional planning councils. These regional councils, commonly referred to as councils of governments (COGs), are voluntary regional associations of counties, cities, and other local governments. The boards of directors of COGs are composed of the elected officials of each member government. Because only one group meets the statutory definition, this seat has always been held by the Executive Director of the Texas Association of Regional Councils. While COGs play an important role in the 911 structure by creating and implementing regional 911 plans, providing for representation by an employee of a trade association on a state board or commission is unusual.

The Commission's structure, reserving a seat for an association — the Texas Association of Regional Councils — is unusual.

▼ **The Legislature has expressed its interest in structuring policymaking bodies to preclude vendor involvement, avoid conflicts of interest, facilitate policymaking, and include members of the public.**

- A common-law doctrine holds that state agency boards may not authorize purchases or enter into contracts in which a member has a financial interest.⁴ Attorney General opinions have repeatedly held that this rule applies to even small and indirect financial interests and that recusal of board members from discussions does not validate the purchase or contracts. Despite the presence of three telephone company representatives, the Commission has taken the approach that this doctrine does not apply to its purchases and contracts because, when the Commission was first formed, rates for 911 services and equipment were a product of a statutorily-

authorized monopoly.⁵ However, the market for telephone services and equipment is no longer a monopoly, and the Legislature would not likely form a Commission with this structure today.

In instances where specific technical knowledge is needed by state boards, the Legislature has sought to provide this knowledge through other means. These include placing industry representatives on boards as non-voting members, creating purely advisory boards, and placing experienced state agency personnel on boards.

- ▶ The principle that state agency policy boards should be free from potential conflicts of interest is commonly represented in state agency enabling statutes and is routinely placed in the statutes of agencies renewed by the Legislature through the Sunset process. For example, of the 22 state agency boards that were reviewed by the Sunset Commission and continued by the Legislature in 1997, 21 boards either already had prohibitions on interest group officers serving as board members or had the provision added in statute by legislative action.⁶
- ▶ The Legislature has reduced the size of state boards when doing so would result in improved decisionmaking. For example, the Legislature, in 1993, reduced the size of the Board of Health from 18 to six members. The bill's proponents argued successfully that a six-member board would be more efficient at policymaking than an 18-member board.⁷ In addition, the Legislature, in 1997, created the six-member Parole Policy Board to simplify the policymaking process for the 18-member Board of Pardons and Paroles.⁸
- ▶ To ensure the public is involved in state agency decisions and that board decisions are made in the public's interest, the Legislature has often placed public members on state agency boards. While the current make-up of the Commission includes unspecified appointments, these members do not necessarily represent the public. For example, one unspecified seat is filled by the Director of Market Operations for Southwestern Bell Wireless.

The Commission has no true public members — one open slot is filled by a telephone industry representative.

While the work of the Commission is technical, experience has shown that public members are fully capable of making decisions even in technical areas. For example, the Finance Commission, which oversees state regulation of banks, savings banks, and lending institutions, is composed of a majority of public members. Other state agencies with a majority of public members include the Texas Alcoholic Beverage Commission and the Public Utility Commission.

▼ **Restructuring the policymaking body for Texas' emergency communications system would improve its decisionmaking ability.**

- ▶ Removal of vendor representatives and interest group members could improve the Commission's decisionmaking by reducing the number of times members must recuse themselves from the Commission's numerous meetings and votes, and by removing public doubt of the Commission's decisions.

The important role that telephone company representatives played when setting up the State's 911 system could be filled by adding additional technical expertise. The state agency with the most telecommunications knowledge is the Public Utility Commission (PUC). Currently, the Commission often looks to PUC for advice and assistance in dealing with the intricacies of a deregulated telephone industry environment. Placing the Executive Director of PUC, or a designee, on the Commission as a non-voting member could ensure that knowledge of the telephone industry is maintained at the Commission.

The Commission could also benefit from expertise in purchasing — particularly telecommunications purchasing. The agency that manages the State's internal telecommunications system is the General Services Commission (GSC). Currently, the Commission often looks to GSC for advice in purchasing telecommunications services and equipment. GSC provides all of the telecommunications services of the Poison Control Network by contract with the Commission and is managing contract negotiations for the Commission's project to establish a statewide database for telephone subscriber name and location information. Placing the Executive Director of GSC, or a designee, on the

Public members have effectively filled positions on boards with technical functions such as regulation of financial institutions and public utilities.

Commission as a non-voting member could ensure that knowledge of telecommunications purchasing is transferred to the Commission.

- D Placing public members on the Commission, who only have interest in the actions of the Commission as users of 911 service, would ensure public representation and help promote public confidence that the Commission serves a public purpose.

The Commission's membership is no longer best suited to oversee the agency's current mission.

Conclusion

While the role of the Commission has changed from planning and implementing a statewide 911 system to maintaining that system, the oversight body has not changed to reflect its new responsibilities. When the Commission first began to plan for the 911 system, its membership included representatives with certain expertise. This expertise is no longer necessary, nor is it the right kind needed to carry out the agency's current mission. In recent years, the Legislature has expressed an interest in keeping policymaking bodies free from undue influence and adding public membership.

Recommendation

Change in Statute

- **Reduce the size of the Advisory Commission on State Emergency Communications from 16 to nine members plus three non-voting ex officio members.**
- **Restructure the Commission's membership as follows:**
 - **Remove the three members representing the largest local telephone service providers;**
 - **Replace the Executive Director of the major association representing regional planning commissions with a board member of a council of governments;**
 - **Remove the representatives of the Department of Public Safety and the Criminal Justice Policy Council;**
 - **Provide that the representative of the Department of Health serves as a non-voting ex officio member;**
 - **Add the Executive Director of the Public Utility Commission, or a designee, as a non-voting ex officio member;**

- **Add the Executive Director of the General Services Commission, or a designee, as a non-voting ex officio member; and**
- **Specify that five members represent the general public.**

This recommendation would reduce the Commission's composition to nine, voting members. The Governor would continue to appoint one board member who is a member of a county commissioner's court, one who is a member of a municipal governing body, and one who is a director of an Emergency Communication District. The new composition of the Commission is reflected in the textbox, *Recommended Commission Composition*.

The voting membership of the new Commission would be made up of a majority of public members. Statutory language defining public members would be placed in the Commission's enabling statute to ensure that public members actually represent the public.

The important role that councils of governments play in the State's 911 system require that COGs continue to be represented on the Commission. This representation would come from a member of a COG governing body, not from that of a paid representative.

The degree of expertise provided by three telephone company representatives is no longer needed as the 911 system is complete throughout the state. Adding a representative of PUC would ensure that the Commission continues to have telecommunications expertise and adding a representative of GSC would boost the Commission's expertise in managing contracts and in competitive procurements. Because the Commission will continue to jointly administer the Poison Control Network with the Department of Health, retention of the TDH representative is necessary. However, TDH's point of view can be presented by a non-voting representative.

Recommended Commission Composition

Five members appointed by the Governor

- One member representing a COG governing body,
- One member representing an Emergency Communication District,
- One member representing a county government,
- One member representing a municipal government, and
- One public member.

Two public members appointed by the Lieutenant Governor.

Two public members appointed by the Speaker of the House.

Three non-voting ex officio state agency representatives

- The Executive Director of the Public Utility Commission, or designee,
- The Executive Director of the General Services Commission, or designee, and
- The Commissioner of the Department of Health, or designee.

Fiscal Impact

This recommendation would have a small, positive fiscal impact to the State. Reducing the size of the Commission would decrease travel and other expenses. Based on historical data, these reductions are estimated at \$1,500 annually.

Fiscal Year	Savings to Dedicated Account in the General Revenue Fund	Change in Number of FTEs from Fiscal Year 1999
2000	\$1,500	0
2001	\$1,500	0
2002	\$1,500	0
2003	\$1,500	0
2004	\$1,500	0

¹ Minnesota Department of Administration, June 1998.

² The Commission currently has four telephone company representatives because, in addition to the three required telephone company seats, one non-specified seat is held by Southwestern Bell Wireless.

³ Advisory Commission on State Emergency Communications, *Commission Meeting Minutes* October 9, 1997, p. 8.

⁴ See for example, Attorney General Opinion JM-817 and Letter Opinions 93-12 and 97-072. The underlying common law doctrine is stated in *Meyers v. Walker*, 276 S.W. 305, 307.

⁵ Advisory Commission on State Emergency Communications, *Self Evaluation Report to the Sunset Commission*, September 1997, p. 26.

⁶ The one exception is the State Preservation Board, which has a primarily legislatively-oriented mission — preservation of the State Capitol.

⁷ House Research Organization, *Special Legislative Report: Major Issues of the 73rd Legislature*, September 30, 1993.

⁸ Sunset Advisory Commission, *Summary of Sunset Legislation*, July 1997, p. 87.

Issue 3

Restructure the Funding of the State's 911 Program to Improve Accountability and Strategic Planning.



Background

The Advisory Commission on State Emergency Communications (Commission) funds 911 services through fees assessed on telephone bills. The Commission funds only the implementation and maintenance of telephone systems to connect callers with 911 answering points. Dispatch of emergency responders, such as police, fire, and emergency medical services, is the responsibility of local governments.

All areas of the state do not participate in the Commission's 911 program. Seventy-five local entities provide 911 services, including 24 councils of governments (COGs), 24 Emergency Communication Districts, and 27 cities. The Commission only oversees 911 services provided by the COGs, not those provided by Emergency Communication Districts or cities.

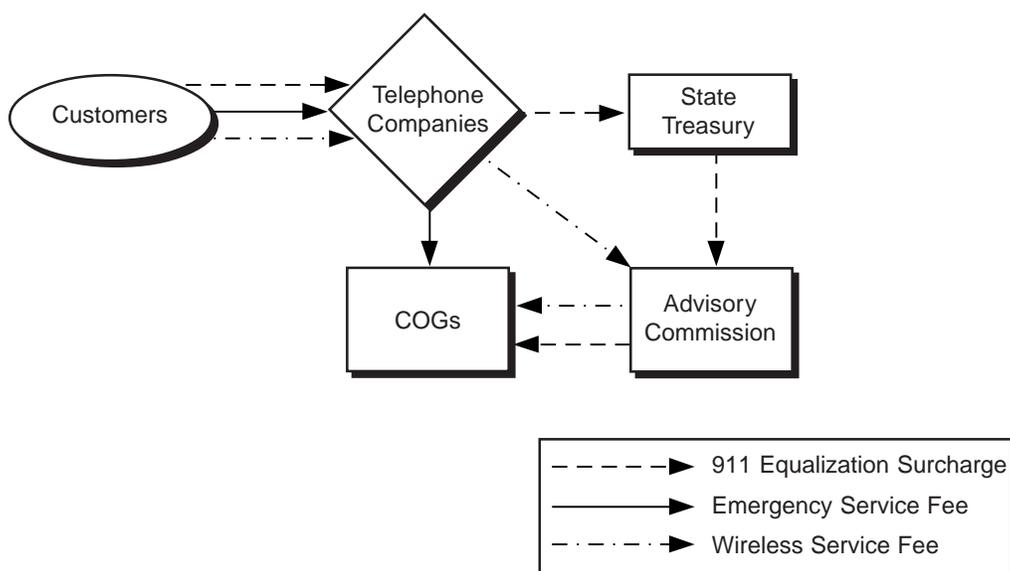
Three different fees pay for the State's 911 program, including an Emergency Service Fee, Wireless Service Fee, and 911 Equalization Surcharge. In fiscal year 1997, these three sources generated more than \$31 million in revenue. The Commission also collects the Poison Control Surcharge to fund the operation of the state's six poison control centers, but this surcharge will not be addressed in this issue.

Each of the State's three 911 funding sources has unique characteristics which are compared in the table, *911*

911 Services Funding Methods			
	Emergency Service Fee	Wireless Service Fee	911 Equalization Surcharge
Amount raised in Fiscal Year 1997	\$20,311,359	\$4,470,807 distributed to COGs	\$6,706,976
Levied on	Standard telephone service	Wireless telephone service	Intrastate long-distance calls
Rate	Maximum of 50 cents per telephone line, per month; may vary by COG but currently at maximum in all 24 COGs	50 cents per wireless connection, per month	Maximum of 0.5 percent of toll; currently set at 0.3 percent
Rate set by	Commission with review and comment by PUC	Legislature	Commission with review and comment by PUC
Remitted to	Individual COGs	Commission	Commission
Kept in State Treasury?	No	No	Yes, since 1993

Services Funding Methods. The 911 Equalization Surcharge is remitted to the Commission and deposited in the State Treasury where it is subject to the appropriations process. The Emergency Service Fee, collected by telephone companies, is remitted directly to the 24 COGs, based on the amount of revenue collected in each region. The Wireless Service Fee revenue is remitted to the State, but is distributed to all 75 local 911 authorities based on their percentage of the State's population and is never part of the appropriations process. The chart, *Flow of Funds in the State's 911 Program*, illustrates the funding process for the State's 911 program.

Flow of Funds in the State's 911 Program



While the Emergency Service Fee and the Wireless Service Fee are the primary funding sources for 911 services, some COGs require additional funding. For instance, a rural COG may not collect enough revenue from its Emergency Service Fee to cover the cost of providing 911 services in its region. The COG may request supplemental funding from the Commission, supported by the 911 Equalization Surcharge revenue. Currently, 18 of the 24 COGs receive funding from this source.

The Commission oversees the spending of the State's 911 program funds through its strategic planning process. According to statute, each COG must submit a plan for Commission approval describing how 911 service will be implemented and operated in its region. By rule, the Commission has established specific guidelines for these strategic plans including detail on how 911 funds will be spent during the subsequent five-year period. These

plans, which must be updated annually, include cost estimates for administration, equipment, service upgrades, addressing projects, and public education. The agency's staff reviews the plans to make sure they include all the information the Commission needs to approve or disapprove the plan. Once a COG's strategic plan has been approved, it can only spend its 911 revenue according to the plan. The agency's staff also reviews each COG's quarterly financial report to ensure the 911 money is being spent appropriately.

In its review of the Commission's funding structure, the Sunset staff focused on the use of State funds devoted to the 911 system. This required an examination of the differences in each of the funding sources of the 911 system. Specifically, the staff focused on the ability of the Commission and Legislature to ensure that 911 funds are spent appropriately.

Findings

▼ **The Emergency Service Fee and Wireless Service Fee are State fees.**

- ▶ Although the Emergency Service Fee is remitted directly to the 24 COGs, it is imposed by State law. The Wireless Service Fee is also a State-imposed fee, yet it is also held outside the State Treasury and distributed to the COGs almost immediately after remittance to the Commission. Because both fees are established under the Commission's enabling statute, and the COGs' enabling statute prohibits them from levying taxes, these fees are clearly State fees.
- ▶ Rate setting and auditing for 911 fees are the responsibility of the State. The Emergency Service Fee is set by the Commission with oversight from the Public Utility Commission, and the Wireless Service Fee is set by the Legislature. Responsibility for auditing telephone companies to ensure proper remittance of 911 fees and surcharges is assigned by statute to the Commission.

▼ **The lack of contractual provisions in the strategic planning process limits the Commission's ability to account for how COGs spend the State's 911 funds.**

- ▶ Despite a time-consuming process of developing and approving strategic plans, this process allows only limited Commission oversight of how the COGs spend State 911 funds.

911 fees are established in State law and are, therefore, State fees.

The Commission's strategic plan process does not enforce contractual agreements with COGs and limits the accountability of the 911 system.

Minimum Standards for 911 Answering Points

While the Commission must approve the cost of new answering points, it has never set rules for the minimum use of call centers. Also, local government desires often play a larger role in these decisions than efficiency considerations, such as call volume or population size. As a result, the Commission's answering points serve disproportionately fewer people than do answering points operated by 911 entities outside the State's system. On average, each State-supported answering point serves 20,000 people while each answering point operated by a non-State entity serves more than 57,000 people. Further, call volume is unevenly distributed within the State's system as some answering points receive fewer than 10 calls per day while others receive 3,000 calls per day.²

The strategic plans are not contractual documents, but instead are loose agreements between the State and the COGs. This does not allow the Commission to include useful performance measures, sanctions, subcontracting guidelines, and competitive purchasing requirements, which are described in the following material.

- ▶ The strategic planning process does not include adequate measures for evaluating the COGs' performance. While the Commission requires COGs to report on expenditures, it does not require information on the performance or efficiency of their 911 systems.¹ For example, the Commission has not developed a system to measure the quality of 911 call delivery, such as the number of calls lost because of equipment failures or hang ups. The lack of efficiency standards for the State's 911 program is best demonstrated by the proliferation of 911 answering points. As discussed in the textbox, *Minimum Standards for 911 Answering Points*, system performance and efficiency have little to do with decisions to establish answering points. Without this connection, the strategic planning process does not help the Commission oversee how 911 funds are spent.
- ▶ The strategic planning process does not include provisions that allow the Commission to impose sanctions on COGs that inappropriately spend 911 funds. For example, Commission staff reported, in July 1998, that the Capital Area Planning Council had made purchases not approved as part of its strategic plan and not permitted by the Commission's rules and statute.³ Because the Commission's only recourse is to ask the Council to repay its 911 program for the misspent money, the Commission is limited in its ability to ensure the best use of the State's 911 money.
- ▶ The Commission also cannot ensure the quality of subcontracted services. The strategic planning process does not clearly authorize the Commission to establish guidelines for COGs to follow when contracting for services, such as answering point operation or addressing projects. A recent State Auditor report found that none of the 24 COGs' contracts for services included all of the necessary provisions. Further, none of the COGs have implemented formal contract monitoring practices to ensure they get what they pay for.⁴

The textbox, *Subcontracting in the Statewide Addressing Project*, provides an example of the inadequate monitoring of the contracts for the statewide addressing project.

- ▶ The Commission cannot ensure that COGs are getting the best value when purchasing telecommunications equipment because the planning process does not require competitive purchasing procedures. Since 1993, COGs have purchased or leased \$96 million of telecommunications equipment primarily from the state's two largest local exchange telephone companies, Southwestern Bell and GTE.⁶ The COGs were allowed to purchase this equipment according to a tariff. This is a standard list of prices negotiated by the Public Utility Commission, which does not include volume buying discounts. However, many other companies now offer equipment that is competitive in quality and price.

▼ **The lack of useful information in the strategic planning process also limits the Commission's ability to oversee the spending of 911 funds.**

- ▶ The Commission does not receive accurate financial information from many COGs. After reviewing financial records of all 24 COGs, the State Auditor found that 16 COGs did not comply with the Commission's financial reporting guidelines.⁷

According to statute, the Commission sets the Emergency Service Fee in each COG based on the cost of providing 911 service and allocates supplemental surcharge revenue based on financial need. However, the Commission does not receive accurate financial information from the COGs needed to make these decisions. Better information may have allowed the Commission to reduce the Emergency Service Fee, which is currently set at its maximum in all 24 COGs despite the statewide implementation of 911 service.

- ▶ The lack of useful financial information also limits the Commission's ability to plan future spending. Projecting expenditures for five years into the future, as required by the strategic planning process, results in long-range financial

Subcontracting in the Statewide Addressing Project

The Commission began the statewide addressing project in 1989 to facilitate the location of 911 callers by assigning an address to every residence and business in the state. The Commission allocated surcharge revenue to COGs to fund contracts with local governments and businesses to perform the addressing. However, the Commission never developed a comprehensive plan to carry out the project, and so each COG was left to develop and implement its own plan, including subcontracting for the necessary work. As a result, regional costs of addressing projects have varied from 75 cents to more than \$20 per citizen. While parts of the state are complete, the addressing program as a whole is currently three years behind schedule and 37 percent over its initial budget.⁵

The Commission has always set the 911 fee at the maximum in every region of the state.

information that is of limited use to the Commission. Because technology is constantly advancing even while costs are decreasing, COGs have limited ability to know spending needs in five years.

Implementing new statewide 911 services, such as wireless access, can span several years. However, the Commission can only predict and budget for surcharge revenue, which is only one part of its three-part revenue stream. Because of its inability to plan for the system's revenues, the Commission has asked the Legislature for authority to carry forward unexpended balances of surcharge revenue.⁸

- Despite its name, the Commission's strategic planning process is strictly financial and does not address strategic direction of the State's 911 program. Strategic plans do not include information from each COG about what is important to the future of 911 service in its region. As a result, the Commission is not taking the vision of the COGs into account when making decisions about the future of 911 service in the state.

For example, at a recent Commission meeting, regional 911 coordinators expressed frustration with the agency staff's financial projections for improving 911 access from wireless phones. They felt the projections were developed without input of the regional 911 coordinators who would actually implement the plan.⁹

- The complexity of the State's 911 funding system is, in part, responsible for the COGs' inability to provide accurate financial information to the Commission. Each COG must account for three different 911 funding sources, requiring three different accounting treatments.¹⁰ As a result, 911 program funds pay personnel costs of account managers in each of the 24 COGs.

The current funding system itself limits the Legislature's ability to account for how State 911 funds are spent.

- Of the \$31 million collected annually through the State's 911 program, the Legislature only controls \$6.7 million, or 21 percent, through the appropriations process. This level of oversight limits the Legislature's ability to strategically plan

The Commission's strategic planning process is purely budgetary and does not address the strategic direction of 911.

and set priorities for the State's 911 program and how 911 funds should be spent.

The State also cannot maximize the investment of 911 funds because all are not deposited in the State Treasury. While COGs are required to invest 911 funds in accordance with the State's Funds Management Act, the Legislature has no assurance that these funds receive the highest return possible.

▼ **Other emergency communication funding methods provide greater accountability to the State.**

- ▶ In recent years, the Legislature has moved State funds into the Treasury — subject to the appropriations process — to improve accountability. In 1993, the 911 Equalization Surcharge revenue was brought into the Treasury as a result of a recommendation of the State Comptroller's Texas Performance Review. The surcharge money was originally remitted to the Commission but kept outside of the State Treasury, as the Wireless Service Fee revenue is today. The recommendation was made to ensure this 911 program money would be spent to achieve the missions and goals of the State.¹¹

In addition, the State Treasury's expertise provided assurance that the surcharge revenue would be managed and invested properly.¹² The recommendation also established a dedicated fund in the State Treasury for the surcharge revenue to ensure that it would be used for its intended purpose of equalizing 911 service throughout the state.

- ▶ The funding approach for the Poison Control Network, also administered by the Commission, provides greater accountability for the expenditure of State funds. The Commission collects the Poison Control Surcharge from telephone companies, deposits the revenue in a dedicated fund in the State Treasury, and transfers spending authority to the Texas Department of Health (TDH). TDH then makes grants to poison control centers based on approved budgets. In some cases, TDH directly pays the centers' operating bills, such as utilities and rent. Together, TDH and the Commission purchase or contract for items used by all of the centers, such as a poison information database.

Because only 21 percent of the State's 911 funds are appropriated by the Legislature, accountability of 911 is limited.

Conclusion

Current funding of the State's 911 program limits the accountability of the program. Although all three 911 funding sources are imposed by the State, only one is part of the State Treasury and the legislative appropriations process. This structure limits the Commission's and the Legislature's ability to adequately oversee the spending of 911 funds. The strategic planning process used by the Commission to oversee 911 spending by COGs relies on inadequate information, does not measure performance or ensure quality, and does not provide for meaningful strategic planning. Subjecting all 911 fees to a higher degree of State control would improve accountability, simplify the funding system, and may result in cost savings due to consolidated funds management.

Recommendation

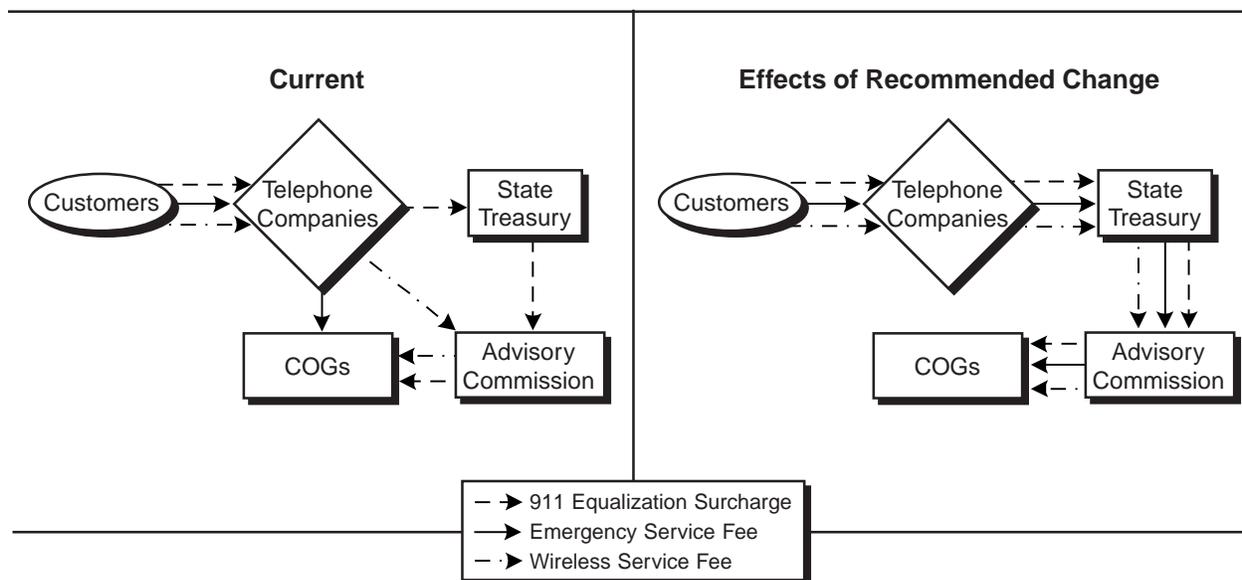
Change in Statute

- **Require local exchange service providers to remit revenue from the Emergency Service Fee and Wireless Service Fee directly to the Commission.**
- **Require the deposit of all revenues from the Emergency Service Fee and Wireless Service Fee to a dedicated account in the State Treasury, for distribution by the Commission to 911 entities.**
- **Specify that all 911 fees are subject to the legislative appropriations process.**

This recommendation would greatly simplify 911 funding by requiring the remittance of all 911 fee revenue to the Commission for deposit in the State Treasury instead of to 24 separate COG regional accounts. The chart, *Comparison of the Flow of Funds in the State's 911 Program*, compares the current funding system to the proposed system. This recommendation would result in increased revenue to the State's 911 program from interest generated by the fees, without creating an administrative burden for the Comptroller's Office. This recommendation would also lessen the administrative burden on the telephone companies. To ensure 911 revenue is used only for the 911 program, these funds would be protected from use for other purposes by placing them in a dedicated account in the State Treasury for the sole purpose of funding 911 services.

Subjecting the Emergency Service Fee and Wireless Service Fee to the appropriations process would allow the Legislature greater control over how the State's 911 funds are spent. The Legislature would be better able to direct the 911 system by funding the 911 services that are most important to the citizens of Texas.

Comparison of the Flow of Funds in the State's 911 Program



- Clarify that regional plans submitted to the Commission by Councils of Governments include:
 - two years of projected financial operating information, and
 - five years of strategic planning information.
- Require the Commission to biennially prepare a State 911 strategic plan based upon information provided in regional strategic plans and to submit the plan to the Legislature and Governor.

Accountability and long-range planning for the State's 911 system would be strengthened by expanding the strategic planning process and by requiring the Commission to present the 911 system's needs to the Legislature. Current provisions creating regional plans would be clarified to establish that financial projections by COGs would be made for only two years in advance, instead of the current five years, and would coincide with the Commission's biennial legislative appropriations request.

In addition, each COG would be required to submit a five-year strategic plan, which should be a statement of long-range goals, not a financial document. This long-range strategic plan would allow each COG to discuss its visions for 911 service in its region over the subsequent five years, including what existing services are most important to continued success and what initiatives could be taken to improve the system. The Commission would compile these regional strategic plans into a statewide 911 strategic plan for submission to the State's policymakers. This statewide 911 plan would be submitted to the Legislature

along with the agency's current strategic plan and cover the same time frames. The strategic information in both plans, relating to the agency and to the 911 system as a whole, will help the Legislature make decisions regarding the future of the State's 911 program.

The Commission should draw on the expertise of the Department of Information Resources (DIR) when revamping its strategic planning procedures. DIR has a well-defined budgetary and strategic planning process that the Commission could use as a model.

■ **Require the Commission to contract with Councils of Governments for 911 services, based upon a regional biennial operating plan.**

Greater accountability for expenditure of 911 funds would be ensured by requiring the Commission to contract with regional 911 authorities. The financial information provided by each COG's biennial regional operating plan, the two-year financial plan discussed above, would establish its funding needs and thus serve as the basis for its contract with the Commission. The Commission would distribute revenues from the Emergency Service Fee and Wireless Service Fee only in accordance with each COG's contract.

In establishing these contracts, the Commission shall ensure that each COG receives Emergency Service Fee revenues in proportion to the amount collected in its region, and that each COG receives Wireless Service Fee revenues in proportion to its region's population. Disbursements should be made quarterly and the Commission would have the authority to withhold a COG's disbursement if that COG fails to follow the standards imposed by contract provisions, statute, or Commission rules. Commission rules and contracts with COGs should include requirements to collect efficiency data on the operation of 911 answering points and standards for the creation of new answering points and usage of existing ones.

This recommendation would not affect the current statutory provisions regarding the distribution of revenue from the Wireless Fee to Emergency Communications Districts and cities with pre-existing 911 systems. These areas, which are outside of the State's 911 system, would continue to receive funds in the current method. This portion of the Wireless Service Fee revenue should not be deposited in the State Treasury or subjected to the appropriations process.

Management Action

- **The Commission's regional contracts should include standard contractual provisions.**
- **The Commission should implement standards for how COGs spend State 911 funds including standards for answering point usage.**

Including standard contractual provisions and implementing standards for spending would strengthen the contracting relationship between the Commission and the COGs and improve accountability for how the State's 911 funds are spent. In developing contracts with the

COGs, the Commission should take into consideration contractual provisions recommended for all state agency contracts, such as those listed in the appendix. This appendix contains the table, *Best Practice Contract Administration*, which includes standard good government contract provisions.

The Commission should also implement standards for COGs to follow in developing expenditure projections for their regional two-year financial plans. The Commission should require COGs to follow competitive and cooperative purchasing procedures and efficiency standards for 911 answering point operation.

Fiscal Impact

This recommendation will have a positive fiscal impact to the State. A gain in interest revenue would result from placing the Emergency Service Fee and Wireless Service Fee revenue in the State Treasury. This gain would equal \$80,000 in fiscal year 2000 and \$144,000 during each subsequent fiscal year. The estimate was based on projected revenue and interest information provided by the Commission and the Legislative Budget Board (LBB).

A one-time gain in the amount of funds available for certification in the General Revenue Fund would result from this recommendation. This gain would total \$3.3 million from the Emergency Service Fee and \$300,000 from the Wireless Service Fee for the 2000-01 biennium. This one-time gain is based on the assumption that the two fees will be distributed to COGs on a quarterly basis.

These estimates assume revenues of approximately \$20 million from the Emergency Service Fee and \$4 million from the Wireless Service Fee. Based on historical data from the LBB, an average interest rate of 5 percent was applied to the principal to calculate the gain in interest. The estimate assumes no administrative costs to the Comptroller's Office associated with the collection of this fee revenue.

Fiscal Year	Gain to Dedicated Account in the General Revenue Fund	Change in Number of FTEs from Fiscal Year 1999
2000	\$3,680,000	0
2001	\$144,000	0
2002	\$144,000	0
2003	\$144,000	0
2004	\$144,000	0

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- ¹ Office of the State Auditor, State of Texas, *An Audit Report on the Statewide 911 System*, Report No. 98-054 (Austin, Tex., July 1998), p. 22.
- ² Population and answering point data provided by the Advisory Commission on State Emergency Communications (August 1998).
- ³ “ACSEC Staff Monitoring Report, Capital Area Planning Council, July 1, 1998,” in Advisory Commission on State Emergency Communications Commission Meeting Notebook, Volume I (July 13-14,1998), p. 105-107.
- ⁴ Office of the State Auditor, p. 13-14.
- ⁵ *Ibid.*, p. 11.
- ⁶ *Ibid.*, p. 10.
- ⁷ *Ibid.*, p. 18.
- ⁸ Advisory Commission on State Emergency Communications Legislative Appropriations Request for the 2000-01 Biennium (August 14, 1998).
- ⁹ Presentation by the Texas Association of Regional Councils 911 Coordinators Association at the September 16, 1998 meeting of the Advisory Commission on State Emergency Communications.
- ¹⁰ Office of the State Auditor, p. 19.
- ¹¹ Texas Performance Review, Comptroller of Public Accounts, State of Texas, *Against the Grain* (Austin, Tex., January 1993), p. 478.
- ¹² House Research Organization, Daily Floor Report, Bill Analysis of Senate Bill 384, (Austin, Tex., March 24, 1993).

Issue 4

Maximize Revenue by Improving Collection of the State's Emergency Communication Fees.



Background

Funding for Texas' 911 and poison control systems comes from four telephone-based fees. Two fees are assessed on local telephone service — the Emergency Service Fee and the Wireless Service Fee — and two are assessed on intrastate long-distance calls — the 911 Equalization Surcharge and the Poison Control Surcharge. Telephone companies bill their subscribers for each of these fees and remit the revenue to the 911 system. To compensate for collection costs, State law permits telephone companies to deduct an administrative fee from the total amount collected. Telephone companies are also given a period of time after collection before remitting the funds. The administrative fee and remittance period vary among the fees. The table, *Emergency Services Funding Sources*, compares the State's fees and shows the amount of the administrative fees and remittance periods.

The Advisory Commission on State Emergency Communications has overall responsibility for ensuring that the telephone companies remit the correct amount of the emergency fees. In fiscal year 1997, telephone companies

Emergency Services Funding Sources				
	Emergency Service Fee	Wireless Service Fee	911 Equalization Surcharge	Poison Control Surcharge
Amount raised in Fiscal Year 1997	\$20,311,359	\$4,470,807 distributed to COGs	\$6,706,976	\$6,793,206
Levied on	Standard telephone service	Wireless telephone service	Intrastate long-distance calls	Intrastate long-distance calls
Collected by	Telephone companies	Wireless telephone companies	Long-distance companies	Long-distance companies
Phone Company administrative fee	2%	1%	2%	2%
Phone Company remittance period	60 days	30 days	60 days	60 days

remitted \$31.5 million to the State 911 program and \$6.7 million to the State Poison Control Center Network. Additional fees are collected by telephone companies for Emergency Communications Districts and cities that are not part of the State 911 program and are not subject to State oversight. To ensure proper collection and remittance of its fees, the Commission contracts for audits of selected telephone companies. Further, the State Comptroller may audit the proper remittance of emergency fees when conducting other audits of telephone companies, such as for State sales tax collections. In addition, the Commission has statutory authority to impose late penalties on telephone companies that fail to remit the fees they collect in a timely manner.

The Sunset review of the collection and remittance of State emergency communication fees focused on the State's interests in seeing that the proper amount of fees are collected and remitted. The review also looked to see if additional revenue could accrue to the State resulting from improved management of these funds.

Findings

▼ **The high cost of collecting the State's emergency fees reduces the amount of funding available for the 911 and poison control programs.**

Telephone companies may earn interest on emergency fees for up to 60 days after collection and may keep up to 2 percent as an administrative fee.

- ▶ Telephone companies are allowed to earn interest on emergency fee revenue for up to 60 days. The interest earned in fiscal year 1997 was about \$325,000. However, half of the state's telephone companies currently remit emergency fees via electronic funds transfer, which requires little time to complete after the fees have been collected from customers.¹
- ▶ Telephone companies are also allowed to keep up to 2 percent of the emergency fee revenue for their administrative expenses related to the collection of the fees. The administrative fee withheld in fiscal year 1997 was about \$735,000.
- ▶ During fiscal year 1997, the cost of collecting the State's emergency fees was more than \$1 million, because of the remittance periods and administrative fees withheld. Consequently, the amount of funding available for the State's emergency communications programs is reduced by \$1 million. The table, *Cost of Collection — Fiscal Year 1997*, compares the amount of revenue the State paid for the collection of each emergency fee during the previous fiscal year.

Cost of Collection — Fiscal Year 1997				
Type of Fee	Total Amount Collected	Lost Interest Revenue Due to Remittance Period	Administrative Fee Withheld	Total Cost of Collection
Emergency Service Fee	\$20,311,359	\$182,993	\$414,518	\$597,511
Wireless Service Fee	\$4,470,807	\$20,140	\$45,160	\$65,300
911 Equalization Surcharge	\$6,706,976	\$60,426	\$136,877	\$197,303
Poison Control Surcharge	\$6,793,206	\$61,203	\$138,637	\$199,840
TOTALS	\$38,282,348	\$324,762	\$735,192	\$1,059,954

▼ **The State has only limited assurance that all emergency fee revenues are being remitted correctly because of insufficient audit coverage and poor enforcement of late payment penalties.**

- ▶ The Commission has responsibility for auditing telephone companies for proper remittance of emergency fees, including fees remitted directly to the councils of governments (COGs) that administer 911 programs on a regional basis. However, the Commission and its contracted internal auditor are overwhelmed by the need to audit the state's 330 telephone companies that remit more than \$38 million annually to the State's emergency communications program. The auditor was able to audit just seven telephone companies in the past two fiscal years.

A few of the state's telephone companies are especially difficult to monitor due, in part, to their size and sophistication. For example, in 1994, after several COGs noticed a downward trend in emergency fee remittances from GTE, the Commission requested an audit. The auditor discovered that since 1992, due to relocation of GTE's offices, the company had only been remitting estimates of fee revenues, rather than actual amounts collected.² Although GTE has been cooperative in remedying this situation, ensuring that the company remits the proper amounts of fee revenue continues to require a great deal of attention from the Commission, its staff, and the auditor. The fact that the situation went unnoticed for two years shows the inability of the Commission to adequately target its audit activities.

- ▶ Because the costs of the auditor's services often exceed the revenue that was not properly remitted, the Commission has

In the past two years, the Commission was able to audit only seven of the 330 telephone companies that collect emergency communications fees.

Although more than half of the telephone companies' payments are made late, the Commission has not collected any late payment penalties.

been unable to justify fully expanding its audit program. Of the seven telephone companies audited in 1997 and 1998, the revenue not remitted to the emergency communications program was \$65,758.³ However, the costs of these audits by the Commission's contracted auditor was \$75,360.⁴ Without the incentive to expand its audits, the Commission is less able to achieve the audit coverage needed to encourage voluntary compliance by telephone companies.

- ▶ Although the State Comptroller's Office was recently given authority to audit telephone companies for the collection of emergency fees, the Comptroller is not required to conduct these audits. Subsequently, the Commission entered into an interagency agreement with the Comptroller to conduct audits in fiscal years 1997 and 1998. However, no agreement has been reached for fiscal year 1999. Since the Comptroller does not have responsibility for emergency fee audits, it no longer conducts these audits.
- ▶ Although the Legislature, in 1997, gave the Commission the authority to fine telephone companies that do not remit emergency fees on time, the Commission has failed to enforce the collection of these penalties. According to the State Auditor, 53 percent of payments surveyed were remitted late. However, the Commission has not enforced the late penalty of up to \$100 per day. Had these fines been enforced, the Commission could have assessed more than \$700,000 in fiscal year 1998.⁵

▼ **The Legislature has shown an interest in maximizing fee collection wherever possible.**

- ▶ In 1997, the Legislature established a statewide fee for funding wireless 911 services. This legislation required wireless service providers to remit within 30 days, and only withhold an administrative fee of 1 percent. In contrast, the other three 911 fees allow a 60 day remittance period and a 2 percent administrative fee.
- ▶ The State sales tax is required to be remitted to the Comptroller within 20 days after the end of the collection period. Similar to emergency fees, businesses required to remit sales taxes are allowed to withhold an administrative fee. However, this

fee is only 0.5 percent. Originally, the remittance period was 30 days and the administrative fee was 1 percent. However, the Legislature shortened the remittance period in 1983 and reduced the administrative fee in 1987.

- In 1997, the Legislature realized the significance of auditing telephone companies for emergency fee remittances and the burden this placed on the Commission and its staff. The Legislature gave the Comptroller's Office authority to audit telephone companies for emergency fee remittances during scheduled audits of telephone companies.

The Comptroller's Office has already proven successful at auditing emergency fees. In fiscal year 1997, the Comptroller audited three telephone companies and found \$71,000 due to the State. During fiscal year 1998, the Comptroller had four audits of telephone companies in progress with one expected adjustment of \$1.5 million.⁶ To date, the Comptroller's Office has performed these audits without requesting reimbursement from the Commission.

While phone companies earn a 2 percent fee for 911 funds, other businesses only earn a 0.5 percent fee for collecting sales taxes.

Conclusion

The State's 911 and poison control programs are funded through fees collected by telephone companies and remitted to the Commission and the 24 COGs. Telephone companies earn interest on the money by holding it for 60 days before remittance and are permitted to keep a 2 percent administrative fee, except in the case of the Wireless Service Fee. This has resulted in a cost to the State's emergency communications programs of approximately \$1 million per year.

The Commission's efforts to audit telephone companies have been inadequate to ensure proper remittance of the State's emergency fees. Further, while the Comptroller's Office can audit telephone companies for these fees, it is not required to do so and is not currently conducting audits for the Commission. Finally, although the Commission has statutory authority to collect late payment penalties from delinquent telephone companies, it has not done so.

Reducing the remittance period and the administrative fee, improving audit coverage, and enforcing the late payment penalty law would maximize the revenue available to the State's 911 and poison control programs.

Recommendation

Change in Statute

- **Require telephone companies to remit the Emergency Service Fee, 911 Equalization Surcharge, and Poison Control Surcharge to the State within 30 days of collection.**
- **Reduce the administrative fee retained by telephone companies for the collection of all emergency communication fees to 1 percent.**

This recommendation would maximize the State's emergency communications revenues by ensuring that all four State fees are remitted timely with an appropriate administrative service fee. Rather than the current 60 days and 2 percent, telephone companies would be required to remit all emergency fees within 30 days of collection and could only keep a 1 percent administrative fee to cover collection costs.

- **Transfer all responsibility to audit telephone companies for proper remittance of emergency fees to the Comptroller of Public Accounts.**

Assigning responsibility for auditing of the fees to the Comptroller will help protect the State's interest in seeing that the fees are properly collected and remitted. The Comptroller's greater audit coverage would also result in a higher degree of voluntary compliance among telephone companies. While this recommendation would eliminate the Commission's need to audit telephone companies, the Commission and the COGs should inform the Comptroller when a telephone company is suspected of improperly remitting emergency fees.

This recommendation would have no significant impact on the Comptroller's Office. Conducting audits of State fees is a standard function of the Comptroller's Office, and it has conducted audits for emergency fees in the past without charging the Commission. This transfer of audit responsibility is enhanced by Issue 3 of this report, which would bring all emergency fees into the State Treasury. While the Comptroller normally conducts audits of businesses that remit fees to the State Treasury, two of the emergency fees are not currently kept in the Treasury. The recommendation in Issue 3 would make all the fees part of the Treasury, and thus make them subject to the Comptroller's audits.

- **Transfer responsibility to assess and collect late payment penalties to the Comptroller of Public Accounts.**

Transferring authority to enforce late payment penalties to the Comptroller's Office would ensure the collection of fines. The Comptroller's Office should establish collection procedures and collect fines from telephone companies that fail to timely remit emergency fees. This recommendation would not have a significant impact on the Comptroller's Office because it regularly assesses and collects late payment penalties for other State fees.

Fiscal Impact

This recommendation will have a positive fiscal impact on the State due to the reduced remittance periods and administrative fees. A gain in interest revenue would result from the fees being remitted 30 days sooner than they currently are. A gain would also result from telephone companies keeping a smaller percentage for administrative purposes. Together, these gains would total \$479,500 each year. This estimate assumes revenues of approximately \$20 million from the Emergency Service Fee and \$6.7 million from each of the surcharges. Based on historical data from the Legislative Budget Board, an average interest rate of 5 percent was applied to the principal to calculate the gain in interest.

The total gain to the General Revenue Fund is contingent upon Issue 3 of this report, which recommends that all emergency fees be deposited in the State Treasury. If the fees were not deposited in the Treasury, the gain to General Revenue would total \$192,400 annually, from reduced remittance periods and administrative fees for 911 and poison control surcharges. The remainder of the gain, about \$287,100 annually, would be distributed among the 24 COGs, which receive Emergency Service Fees directly from telephone companies.

This recommendation would also likely result in a positive fiscal impact on the State due to increased audit coverage and collection of late payment penalties. However, the amount of increased revenue cannot be estimated, because the amount of improperly remitted fees and the amount of late penalties the Comptroller may collect cannot be predicted.

Transferring audit responsibility to the Comptroller would result in savings because the Commission would no longer need to contract this function. The amount spent by the Commission to perform audits of telephone companies totaled \$58,500 in fiscal year 1997.⁷ The chart below reflects these savings and the revenue gain to the State assuming the adoption of Issue 3 in this report, bringing all emergency fees into the State Treasury.

Fiscal Year	Gain to Dedicated Account in the General Revenue Fund	Savings to Dedicated Account in the General Revenue Fund	Change in Number of FTEs from Fiscal Year 1999
2000	\$479,500	\$58,500	0
2001	\$479,500	\$58,500	0
2002	\$479,500	\$58,500	0
2003	\$479,500	\$58,500	0
2004	\$479,500	\$58,500	0

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- ¹ Information provided by Brian Millington, Chief Financial Officer, Advisory Commission on State Emergency Communications (September, 1998).
- ² “ACSEC Staff Report, Subject: GTE Service Fee Remittance and Collection” in Advisory Commission on State Emergency Communications Meeting Notebook, Volume I (Austin, Tex., July 13-14, 1998), p. 31-32.
- ³ Garza/Gonzales & Associates, *Report on Audit of Service Providers, 911 Equalization and Poison Control Surcharge* (Austin, Tex., October 1997), p. 12; and Garza/Gonzales & Associates, *Report on Audit of Service Providers: 911 Equalization and Poison Control Surcharge*, in Advisory Commission on State Emergency Communications Meeting Notebook, Volume I (Austin, Tex., September 17-18, 1998), p. 103.
- ⁴ Information provided by Brian Millington, Chief Financial Officer, Advisory Commission on State Emergency Communications (September, 1998); and Advisory Commission on State Emergency Communications, *Annual Financial Report for the Year Ended August 31, 1997* (Austin, Tex., October 1997), p. 20..
- ⁵ Office of the State Auditor, State of Texas, *An Audit Report of the Statewide 911 System*, Report No. 98-054 (Austin, Tex., July 1998), p. 21.
- ⁶ Information provided by Ledford Kelly, Office of the Comptroller of Public Accounts, State of Texas (August 1998).
- ⁷ Advisory Commission on State Emergency Communications, *Annual Financial Report for the Year Ended August 31, 1997* (Austin, Tex., October 1997), p. 20.
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ACROSS-THE-BOARD RECOMMENDATIONS

Advisory Commission on State Emergency Communications	
Recommendations	Across-the-Board Provisions
	A. GENERAL*
Apply	1. Require at least one-third public membership on state agency policymaking bodies.
Modify	2. Require specific provisions relating to conflicts of interest.
Apply	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Apply	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Apply	10. Require information to be maintained on complaints.
Apply	11. Require development of an equal employment opportunity policy.

* Only the general across-the-board provisions apply to the Advisory Commission on State Emergency Communications. Because this agency does not have a licensing function, the across-the-board provisions relating to licensing do not apply.

BACKGROUND

Background

AGENCY HISTORY

Background

The mission of the Advisory Commission on State Emergency Communications (Commission) is to enhance public safety by facilitating the local implementation and maintenance of 911 emergency telephone service, and by providing access to poison control telephone services throughout Texas. The State's role in providing 911 service is limited to the delivery of calls to answering centers and does not include funding for dispatch of emergency services. The Commission assists regional councils of governments (COGs) and their local governments, that choose to be a part of the State's system, to develop regional 911 plans funded through telephone service fees. The Commission also uses funds raised by a surcharge on intrastate long distance to equalize 911 service across the state. In partnership with the Texas Department of Health (TDH), the Commission administers the State's poison control service system by establishing the telecommunication network that links poison control answering centers, and by providing funding through the intrastate long-distance surcharge.

History of 911 in Texas

- 1967** President's Commission on Law Enforcement and Administration of Justice recommends creation of a single, standard dialing code to make public access to emergency services easier.
- 1968** AT&T reserves the dialing code, 911, as the single, easy-to-remember phone number for all emergency services.
- 1970s** Texas cities begin to develop 911 answering systems. Odessa is first, followed by College Station and Alice.
- 1983** Legislature authorizes the creation of special purpose emergency communications districts to coordinate and fund 911 services in metropolitan areas. Harris County creates first county-wide 911 system under the new statutory authority.
- 1985** The Legislature grants other metropolitan areas permission to create emergency communications districts.
- Responding to a call for statewide 911 coordination, the Legislature also authorizes a temporary study commission, the Advisory Commission on State Emergency Communications, to study the feasibility of consistent statewide 911 service.
- 1987** To date, a total of 24 Emergency Communication Districts have been formed. Another 27 cities have established 911 systems.
- Following its study of 911, the Commission recommends forming a permanent 911 Commission. The Legislature passes HB 911 giving the Commission state-agency status and permitting local governments to join the State's system through their local council of governments. To fund the system, the Legislature created a 911 service fee and a surcharge on intrastate long-distance calls. The bill also exempts the existing 24 Emergency Communication Districts and 27 cities with established 911 systems from compliance with statewide standards.
- 1997** The Legislature levies a 911 service fee on cellular phones.
- The Commission achieves its legislative goal of extending 911 service throughout Texas.

Before the Legislature created the Advisory Commission, only about 40 percent of the State's population had access to 911.

Beginning in the late 1960s, interest by citizens and public safety officials in creating a single, standardized, and easy-to-remember emergency phone number led to the reservation of the telephone dialing code 911 by AT&T. As the mere reservation of this phone number did not create the infrastructure necessary to allow citizens to call and access an emergency response system, local governments began to build answering systems. In Texas, the progress towards creating 911 systems was slow. By the mid 1980s, only about 40 percent of the state's population had access to the 911 system. A full history of the growth of 911 in Texas can be found in the textbox, *History of 911 in Texas*.

In 1985, the Legislature created the Advisory Commission on State Emergency Communications, purely as a study commission to examine ways of expanding 911 service to the entire state and improving the coordination

of existing 911 service areas. Following its two-year study, the Commission recommended the formation of a permanent 911 commission with a stable funding source. A summary of the Commission's major recommendations is given in the textbox, *Recommendations to the 70th Legislature by the Advisory Commission on State Emergency Communications*.

**Recommendations to the 70th Legislature
by the Advisory Commission on State
Emergency Communications**

- 911 should be the single statewide, universal emergency reporting number.
- 911 service should have a minimum of automatic number identification.
- Statewide implementation of 911 should occur within eight years.
- 911 service should be funded by a fee on local service and an equalization surcharge on intrastate long distance.
- Texas' 24 councils of governments should implement the State's program and existing 911 districts should not be required to participate.
- The Advisory Commission on State Emergency Communications should be continued and designated as the State's administrative body for 911.

In response to the study commission's report, the Legislature, in 1987, adopted each of the major recommendations, changed the Commission's mission from that of studying the 911 system to facilitating local implementation of service across the state, and made the Commission a state agency with its own staff. The 24 existing Emergency Communication Districts and the 27 cities that had already established 911 systems were not required to join the State's system and were permitted to continue offering emergency communication systems without State oversight. However, the statute requires localities without 911 service to either join the State's system or go without service. The Legislature designed the State's system to operate through COGs and included an Emergency Service Fee on all telephone lines in

participating communities. The Legislature also created a statewide surcharge on intrastate long-distance usage to fund grants to equalize service across the state. The interaction of the Commission's COG-based 911 services with the state's other 911 providers are discussed in the textbox, *Design of Texas' 911 System*.

Design of Texas' 911 System

Texas has three separate levels of government that provide 911 services: councils of governments, Emergency Communication Districts, and cities. Although the Commission only oversees the 911 efforts of COGs, the Commission has some limited oversight of Emergency Communication Districts and cities that accept Commission grants.

Councils of Governments (COGs)

COGs are regional planning councils composed of member governments that have voluntarily joined together under authority granted by state law. Texas' 24 COGs provide 911 services in 224 of Texas' 254 counties, although some of these counties contain home-rule cities that have opted to provide their own services (see Cities, below). COGs also provide other governmental services, such as services for the aging, and environmental and transportation planning. The parts of Texas receiving 911 services from COGs are primarily rural areas. The Commission has direct oversight for 911 services provided by COGs and these services are funded by 911 service fees. COGs are required to submit strategic plans to the Commission containing detailed spending plans and budgetary information. COGs are also eligible for equalization funds raised by a surcharge on intrastate long-distance calls. The map, *Texas Councils of Governments*, shows the state's 24 COGs.

Emergency Communication Districts (Districts)

Twenty-four districts provide 911 service in 29 counties — primarily Texas' metropolitan counties. These 911 operations are overseen by independent governing boards operating under

statutory authority, separate from COG governing structures and oversight from the Commission. Districts exist only to provide 911 service. Districts are not required to conform to standards set by the Commission, do not receive funds raised from the State's 911 service fee, and are eligible to set their own service fees without approval from the Commission. Districts are also eligible to receive equalization grants from the Commission that are raised from the surcharge on intrastate long distance. The map, *Emergency Communications Districts*, shows the state's 24 districts.

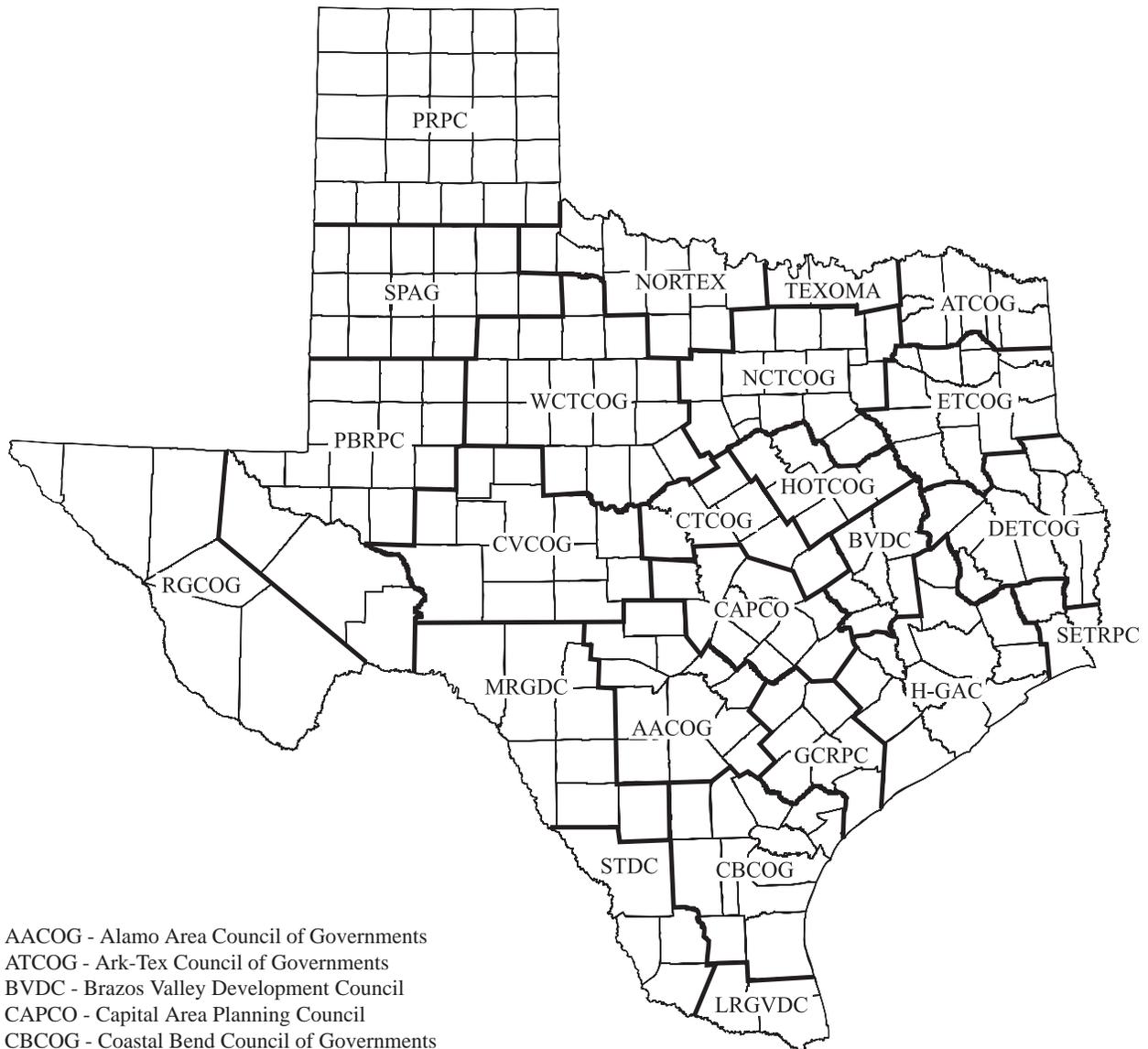
Cities

Twenty-seven Texas cities have chosen to provide their own 911 services without direct assistance from the Commission and without forming an emergency communications district. These cities are located primarily in the Dallas metro area, but also include mid-sized cities in other areas. In these cities, 911 operations are overseen by city councils, which set their own emergency service fees. These cities are also eligible for 911 equalization grants raised by the surcharge on intrastate long distance. The cities with their own 911 programs are:

In Texas, 911 is provided by 75 separate governmental entities: 24 councils of government, 24 Emergency Communication Districts, and 27 cities.

Addison	Ennis	Mesquite
Aransas Pass	Farmers Branch	Plano
Cedar Hill	Garland	Portland
Commerce	Glenn Heights	Richardson
Coppell	Highland Park	Rowlett
Dallas	Hutchins	Sherman
Denison	Kilgore	Sunnyvale
DeSoto	Lancaster	University Park
Duncanville	Longview	Wylie

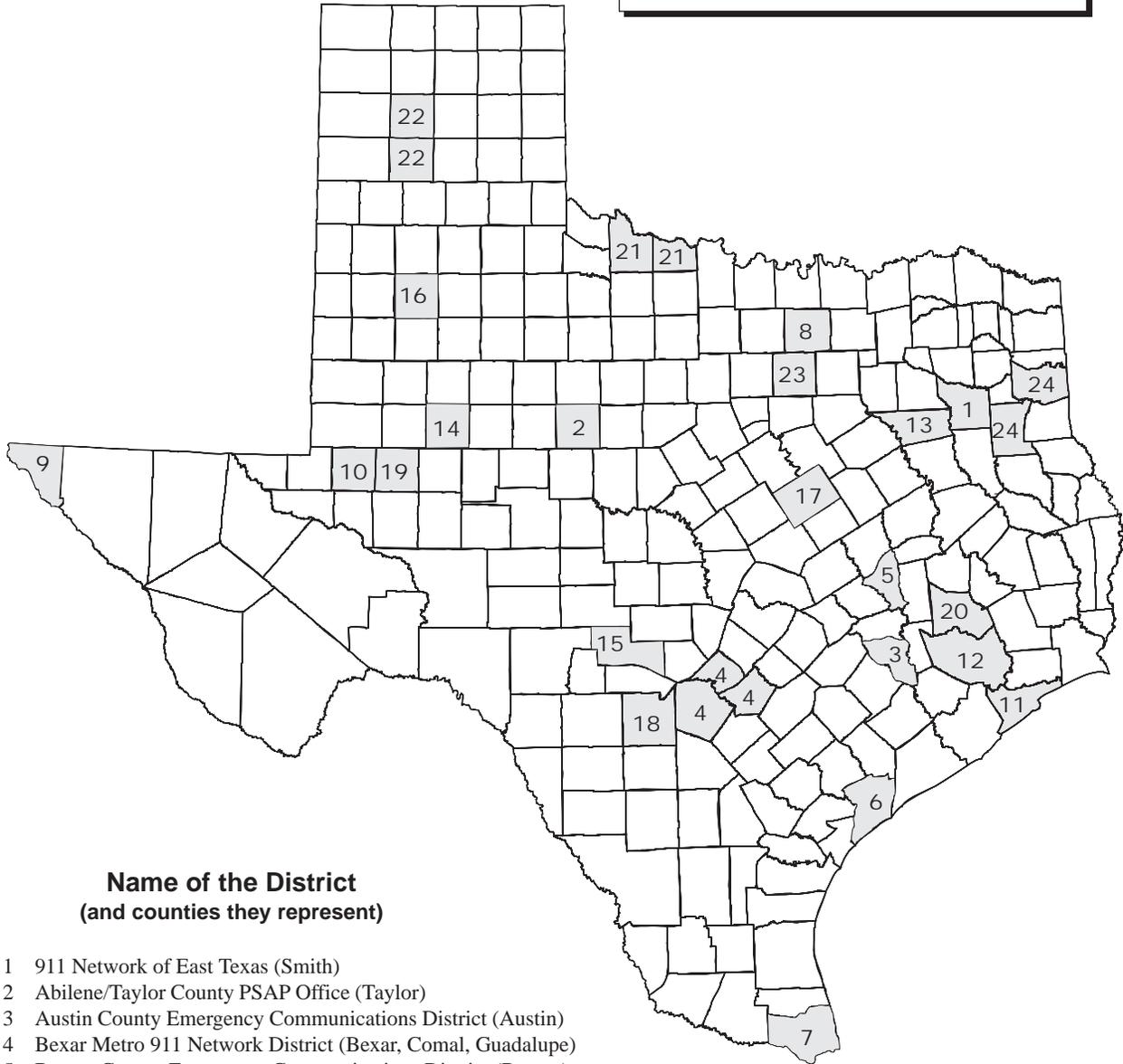
Texas Councils of Governments



- AACOG - Alamo Area Council of Governments
- ATCOG - Ark-Tex Council of Governments
- BVDC - Brazos Valley Development Council
- CAPCO - Capital Area Planning Council
- CBCOG - Coastal Bend Council of Governments
- CTCOG - Central Texas Council of Governments
- CVCOG - Concho Valley Council of Governments
- DETCOG - Deep East Texas Council of Governments
- ETCOG - East Texas Council of Governments
- GCRPC - Golden Crescent Regional Planning Commission
- H-GAC - Houston-Galveston Area Council
- HOTCOG - Heart of Texas Council of Governments
- LRGVDC - Lower Rio Grande Valley Development Council
- MRGDC - Middle Rio Grande Development Council
- NORTEX - Nortex Regional Planning Commission

- NCTCOG - North Central Texas Council of Governments
- PBRPC - Permian Basin Regional Planning Commission
- PRPC - Panhandle Regional Planning Commission
- RGCOG - Rio Grande Council of Governments
- SETRPC - South East Texas Regional Planning Commission
- SPAG - South Plains Association of Governments
- STDC - South Texas Development Council
- TEXOMA - Texoma Council of Governments
- WCTCOG - West Central Texas Council of Governments

Emergency Communications Districts



**Name of the District
(and counties they represent)**

- | | |
|--|--|
| 1 911 Network of East Texas (Smith) | 18 Medina County 911 Distict (Medina) |
| 2 Abilene/Taylor County PSAP Office (Taylor) | 19 Midland Emergency Communications District (Midland) |
| 3 Austin County Emergency Communications District (Austin) | 20 Montgomery County Emergency Communications District (Montgomery) |
| 4 Bexar Metro 911 Network District (Bexar, Comal, Guadalupe) | 21 Nortex 911 Communications District (Wichita, Wilbarger) |
| 5 Brazos County Emergency Communications District (Brazos) | 22 Potter-Randall County Emergency Communications District (Potter, Randall) |
| 6 Calhoun County 911 Emergency Communications District (Calhoun) | 23 Tarrant County 911 District (Tarrant) |
| 7 Cameron County Emergency Communications District (Cameron) | 24 Texas Eastern 911 Network (Rusk, Harrison) |

History of Poison Control in Texas

Pre-1993	Texas' two main poison control centers — Parkland Memorial Hospital in Dallas and University of Texas Medical Branch in Galveston — are overloaded with calls. As a county-funded hospital, Parkland begins restricting access to callers from other counties. Little coordination exists between the two centers.
1993	The Legislature creates the Texas Poison Center Network — jointly administered by the Commission and the Texas Department of Health — and establishes six poison control centers including the original two in Dallas and Galveston and four new centers in San Antonio, El Paso, Amarillo, and Temple. The legislation also creates a stable funding source in the form of a poison control surcharge on intrastate long-distance calls.
1994	The Texas Poison Center Network begins receiving calls on September 1, through its statewide, toll-free number, 1-800-POISON-1.
1995	New poison centers in Amarillo and San Antonio open for business and centers in El Paso and Temple expand service. By end of year, all six centers are receiving calls. Monthly network calls increase from 15,000 in September 1994 to 24,000 in December 1995.
1996	Poison network telecommunications infrastructure is fully deployed, permitting calls to be automatically rerouted away from busy or closed centers.

In 1993, the Legislature gave the Commission, in conjunction with the Texas Department of Health (TDH), the additional responsibility of creating and managing a poison control system for the State. The poison control system permits Texans to receive telephone information related to poisonings and exposures to potentially harmful substances on a 24-hour-a-day basis. The Commission administers this program through contracts with six poison control centers as specified in statute. A history of poison control efforts in Texas can be found in the textbox, *History of Poison Control in Texas*.

In 1997, recognizing the growth of the cellular phone industry, the Legislature made two changes in the Commission. First, wireless phone (including analog and digital cellular and satellite phones) subscribers were required to pay a service fee similar to that of landline phones to support the 911 system, and this fee would be used to provide information about the number and location of cell phone users to 911 call takers. Also in 1997, in response to concerns that the system for collecting 911 fees lacked sufficient oversight, the Legislature gave the Public Utility Commission (PUC) a role in

overseeing the process by which the Commission sets all 911 and poison control fees and surcharges.

POLICYMAKING BODY

The Advisory Commission on State Emergency Communications is governed by a 16-member Commission with 12 appointed members and four ex officio members. Of the 12 appointed members, eight are selected by the Governor, two by the Lieutenant Governor, and two by the Speaker of the House of Representatives. Each of the appointed members serve staggered, six-year terms. The requirements for appointment to the Commission are detailed in the textbox, *Members of the Advisory Commission on State Emergency Communications*.

The Health and Safety Code sets out the duties and responsibilities of the Commission. Major duties include implementation of statewide 911 service and telecommunications requirements for poison control centers, development of minimum standards for 911 equipment and operations, and approval and allocation of funds to implement regional 911 operating plans. The Texas Board of Health and the Commission jointly adopt rules governing the awarding of grants to fund the operation of regional poison control centers.

The Commission appoints its own Chair and hires the agency's Executive Director and other staff. The Commission has established two standing committees, Programs and Operations, to assist in managing its affairs.

In addition, the Legislature has established a 15-member Poison Center Coordinating Committee to advise the Commission and the Board of Health on poison control issues and to recommend rules governing the operation of the system. The statutory make-up of the coordinating committee is specified in the textbox, *Members of the Poison Control Coordinating Committee*. Since 1995, however, the official membership of the coordinating committee has not met. In its place, the Commission and the Board of Health have appointed an ad hoc committee consisting of the directors and medical directors of the six poison centers and a representative of the Commission's staff and of TDH.

Members of the Advisory Commission on State Emergency Communications

Governor Appointments (eight members)

- a representative from each of the three local telephone service providers serving the most local access lines (currently Southwestern Bell, GTE, and Sprint)
- a member of a municipal body
- a member of a county commissioner's court
- a director of an Emergency Communication District
- two non-specified appointments

Lieutenant Governor Appointments

- two non-specified appointments

Speaker of the House Appointments

- two non-specified appointments

Ex Officio Members, each of which may appoint a designee

- Commissioner of Health
- Director of Department of Public Safety
- Executive Director of Criminal Justice Policy Council
- Executive Director of the major association representing regional planning commissions (Texas Association of Regional Councils)

Members of the Poison Control Coordinating Committee

One member from each of the following entities appointed by each entity's chief executive officer.

- University of Texas Medical Branch at Galveston
- Dallas County Hospital District
- University of Texas Health Science Center at San Antonio
- El Paso County Hospital District
- Amarillo Hospital District
- Scott and White Memorial Hospital
- University of Texas Southwestern Medical Center at Dallas
- Texas A&M University Health Science Center
- Texas Tech University Health Science Center
- Texas Veterinary Medical Diagnostic Laboratory
- Texas Department of Agriculture
- Texas Department of Health
- Advisory Commission on State Emergency Communications

One public member appointed by each of the following boards.

- Texas Board of Health
- Advisory Commission on State Emergency Communications

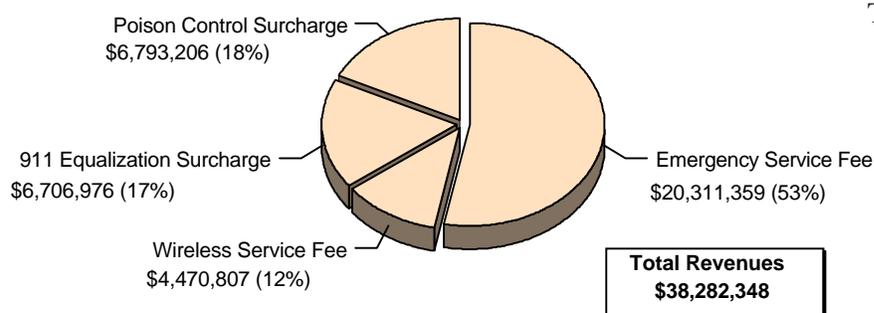
FUNDING

REVENUES

Texans pay for 911 and poison control services through fees assessed on their telephone bills. Four different fees pay for these services including:

Emergency Service Fee, Wireless Service Fee, 911 Equalization Surcharge, and Poison Control Surcharge. The characteristics of each are described in the sections below.

**Sources of Revenue for State-Funded
Emergency Communications
Fiscal Year 1997**



The graph, *Sources of Revenue for State-Funded Emergency Communications — Fiscal Year 1997*, shows how the State system's \$38 million in annual revenue is raised from the four funding sources. This does not include fees collected by the districts and cities that are not part of the

State's system. An estimated total of all 911 revenues raised by the State, COGs, districts and cities is \$94 million annually.¹ The table, *Emergency Services Funding Methods*, shows a comparison of the State's four fees and surcharges.

EMERGENCY SERVICE FEE

All subscribers to standard telephone service in the state pay for 911 service through their monthly telephone bills. However, the State's role in determining the amount and the usage of the money collected for 911 varies depending on whether a jurisdiction participates in the Commission's 911 program. Telephone users in Emergency Communication Districts and cities that have elected not to join the State's system pay a fee that is set by their local 911 authority and is used to fund 911 services at the discretion of that authority. The Commission has no say in how 911 fees are set or used in these districts and cities.

In the regions that are part of the State's 911 program, the Commission sets the amount of the Emergency Service Fee and determines how the fee revenue is used in that region. The Emergency Service Fee is meant for the implementation and maintenance of the 911 telecommunications systems necessary to connect a caller to the nearest 911 call center. The revenue

Emergency Services Funding Methods				
	Emergency Service Fee	Wireless Service Fee	911 Equalization Surcharge	Poison Control Surcharge
Purpose	Funds 911 service access	Funds 911 service access from wireless phones	Supplements emergency service fees in high-cost areas	Funds operations of poison control centers
Levied on	Standard telephone service	Wireless telephone service	Intrastate long-distance calls	Intrastate long-distance calls
Rate	Maximum of 50 cents per telephone line, per month; may vary by COG but currently at maximum in all 24 COGs	50 cents per wireless connection, per month	Maximum of 0.5 percent of toll; currently set at 0.3 percent	Maximum of 0.8 percent of toll; currently set at 0.3 percent
Rate set by	Commission with review and comment by PUC	Legislature	Commission with review and comment by PUC	Commission with review and comment by PUC
Collected by	Telephone companies	Wireless telephone companies	Long-distance companies	Long-distance companies
Remitted to	Individual COGs	Commission distributes to 911 authorities based on population	Commission distributes to 911 authorities based on need	Commission transfers to TDH, which grants to poison centers
Phone Company administrative fee	2%	1%	2%	2%
Phone Company remittance period	60 days	30 days	60 days	60 days
Amount raised in Fiscal Year 1997	\$20,311,359	\$4,470,807 distributed to COGs	\$6,706,976	\$6,793,206
Kept in State Treasury?	No	No	Yes	Yes

from this fee is not used to pay for 911 call taker salaries or the dispatch of emergency responders, such as fire fighters, Emergency Medical Services, and police officers, which are funded by local governments through local taxes.

By law, the Emergency Service Fee cannot exceed 50 cents per telephone access line, per month, but it may vary by region. Currently, the Commission has set the fee at the maximum rate of 50 cents in all 24 COGs. Telephone companies collect the fee revenue from their customers and remit it directly to the COGs. The telephone companies may take up to 60 days to remit fees and are allowed to keep 2 percent as an administrative fee. The Commission does not handle the money generated by the Emergency Service Fee and it is not kept in the State Treasury or subject to the legislative appropriations process.

WIRELESS SERVICE FEE

The second fee that funds 911 services is the Wireless Service Fee. This fee is levied on all wireless telephones at a statutorily-prescribed rate of 50 cents per wireless connection, per month. Unlike the Emergency Service Fee, the Wireless Service Fee is the same throughout the state and is fixed at 50 cents. All wireless users pay this fee, regardless of whether they live in areas that participate in the Commission's 911 program. Wireless telephone companies collect the fee money from their customers and remit it to the Commission, minus a 1 percent administration fee, within 30 days. The Commission collects the fee revenues in a fund outside of the State Treasury and the appropriations process, and then distributes it to each regional 911 authority, including COGs, Emergency Communication Districts, and cities, based on the population of that region.

911 EQUALIZATION SURCHARGE

The 911 Equalization Surcharge is designed to provide necessary funding in areas where the Emergency Service Fee is insufficient to fund local 911 systems. This need occurs mainly in rural areas with few telephone customers. This surcharge is levied at a rate of up to 0.5 percent of a customer's total intrastate long-distance bill. Currently, the Commission has set the surcharge at 0.3 percent.

Telephone companies collect the surcharge money from their customers and remit it to the Commission within 60 days, subject to a 2 percent administrative fee to cover their costs. The surcharge revenue is kept in the State Treasury and is part of the appropriations process. The Commission distributes the money to any local 911 authority in need of additional funding — including COGs, Emergency Communication Districts, and cities. The Commission has the authority to monitor the spending of the surcharge money even in districts and cities that are not part of the State's 911 program.

POISON CONTROL SURCHARGE

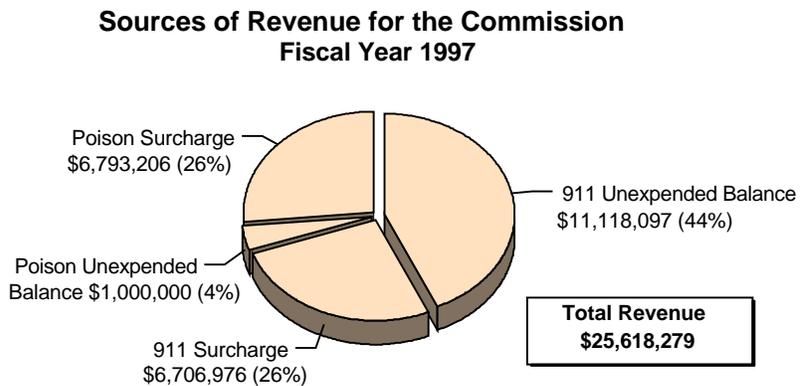
The Poison Control Surcharge is the sole source of funding for the State's six poison control centers. While 911 fees fund only the telecommunications aspects of 911, the poison surcharge funds all operational costs of the poison centers, including the salaries of call takers.

The Poison Control Surcharge is levied on intrastate long-distance usage, similar to the 911 Equalization Surcharge, but at a maximum rate of 0.8 percent. The Commission has set the surcharge rate at 0.3 percent. Telephone companies collect the surcharge money from their customers and remit it to

the Commission, minus a 2 percent administration fee, within 60 days. The surcharge revenue is kept in the State Treasury and is part of the appropriations process. The Commission passes the money to the Texas Department of Health, which grants it to the individual poison centers.

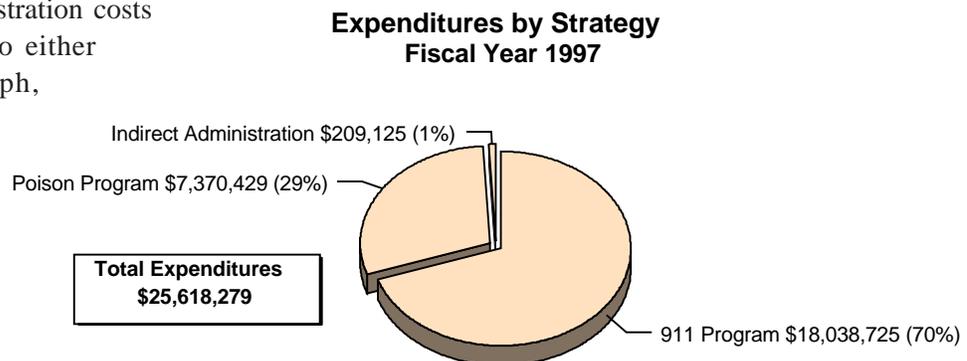
THE COMMISSION’S REVENUE

Of the four funding sources discussed above, only the 911 and poison surcharges are part of the Commission’s annual appropriation. In 1997, the Commission received approximately \$13.5 million in surcharge revenue. The graph, *Sources of Revenue for the Commission — Fiscal Year 1997*, divides the Commission’s funding sources into its component parts. This money came from the 911 and poison surcharge fees collected from intrastate long-distance usage during 1997 or accumulated during the previous 10 years, as reflected in the unexpended balance amounts.



Expenditures

In fiscal year 1997, the Commission’s expenditures totaled \$25,618,279. In addition to spending the surcharge revenues, the Commission also expended the majority of its unexpended balances. These expenditures fell into three main categories: the poison program, 911 programs, and administration costs not directly related to either program. The graph, *Expenditures by Strategy — Fiscal Year 1997*, shows the amount of expenditures in each of these categories.



As discussed above, the agency’s 911 program is funded through revenues generated from the 911 Equalization Surcharge. The Commission’s main expenditure is the distribution of grants to COGs, and other 911 authorities, for 911 activities that cannot be funded through local emergency service fees. During fiscal year 1997, the Commission distributed

\$16.5 million to COGs and just over \$300,000 to other 911 authorities. Also during fiscal year 1997, the Commission used \$1.3 million of the surcharge revenues to fund the administration of its 911 programs and public education activities.

The Commission's poison program is funded by revenues generated from the Poison Control Surcharge. The majority of this money, \$7 million, was passed to TDH for distribution to the State's six poison control centers to fund their operation during fiscal year 1997. In addition, the Commission and TDH together used just over \$330,000 of the poison surcharge revenues to fund the administration of the poison control program within the agencies.

The Commission also funds its indirect administration, totaling \$209,125 in fiscal year 1997, from a portion of the revenue from both the 911 and poison surcharges.

HUB Expenditures

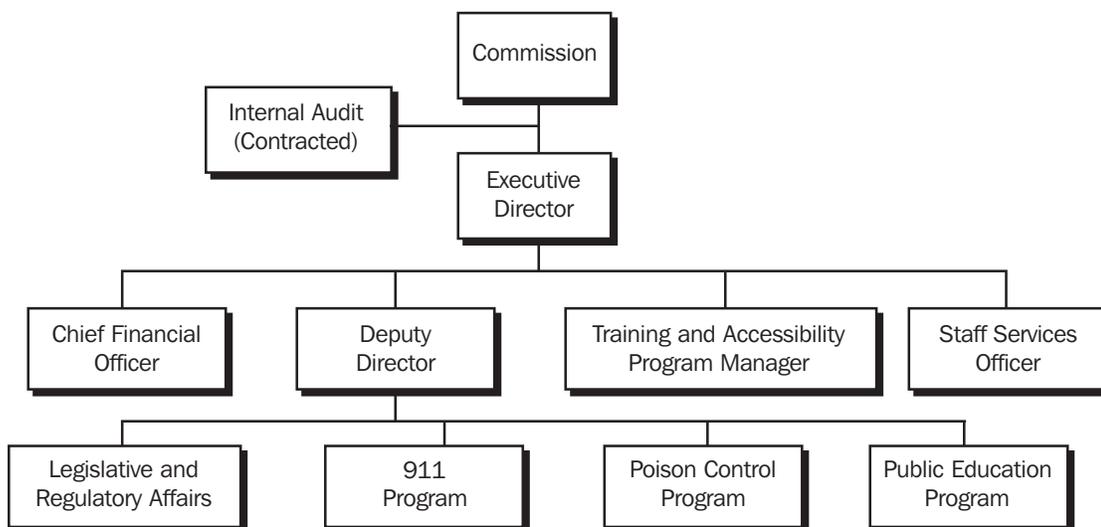
The Legislature has encouraged agencies to increase their use of Historically Underutilized Businesses (HUBs) in purchasing goods and services. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews. In 1997, the Advisory Commission on State Emergency Communications purchased 34.9 percent of its goods and services from HUBs. The chart, *Purchases From HUBs — Fiscal Year 1997*, provides detail on HUB spending by type of contract and compares these purchases with the statewide goal for each category. The Commission exceeded the State goals in its purchases of commodities and professional services. However, the agency fell just short of the goal for the purchase of other services, which represented the majority of the Commission's contract spending.

Purchases From HUBs Fiscal Year 1997				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0	\$0	0.0%	11.9%
Building Construction	\$0	\$0	0.0%	26.1%
Special Trade	\$0	\$0	0.0%	57.2%
Professional Services	\$79,120	\$79,120	100.0%	20.0%
Other Services	\$713,696	\$220,444	30.9%	33.0%
Commodities	\$126,823	\$21,386	16.9%	12.6%
TOTAL	\$919,639	\$320,950	34.9%	

ORGANIZATION

The Commission has a staff of 20 employees, all of whom are housed at the agency’s headquarters in Austin. The organizational structure of the agency’s divisions is illustrated in the chart, *Advisory Commission on State Emergency Communications Organizational Chart*.

**Advisory Commission on State Emergency Communications
Organizational Chart**



The Commission’s Executive Director directly oversees the agency’s financial and administrative functions, and the training and accessibility program. The Training and Accessibility Program Manager is responsible for recommending training standards for 911 call takers and developing programs to increase the accessibility of 911 services for the hearing impaired. The Executive Director also oversees the Deputy Director who is responsible for the Commission’s main functional programs including 911, poison control, and public education, and managing the legislative and regulatory affairs of the agency.

A comparison of the Commission’s workforce composition to the minority

Advisory Commission on State Emergency Communications Equal Employment Opportunity Statistics Fiscal Year 1997							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force	Agency	Civilian Labor Force	Agency	Civilian Labor Force
Officials/Administration	7	0%	5%	29%	8%	57%	26%
Professional	1	0%	7%	0%	7%	0%	44%
Technical	6	0%	13%	17%	14%	83%	41%
Protective Services	0		13%		18%		15%
Para-Professionals	0		25%		30%		55%
Administrative Support	8	13%	16%	25%	17%	75%	84%
Skilled Craft	0		11%		20%		8%
Service/Maintenance	0		19%		32%		27%

Civilian Labor Force is shown in the chart, *Advisory Commission on State Emergency Communications Equal Employment Opportunity Statistics — Fiscal Year 1997*. In general, the Commission exceeded Civilian Labor Force levels for women and Hispanics, but Blacks are under-represented.

AGENCY OPERATIONS

The Commission has adopted two goals in its strategic plan that reflect its major functions: to provide 911 services throughout Texas and to provide, in cooperation with TDH, a statewide poison control center network that aids in the treatment and prevention of poisonings. The Commission's operations to meet these goals are discussed in the following material.

Statewide 911 Services

The Commission provides 911 services through the state's 24 councils of governments (COGs). The Commission does not provide all 911 services in Texas nor does it provide all services associated with 911 in its service areas. The operation of Texas' 911 system was discussed previously in the textbox, *Design of Texas' 911 System* on page 55. The 911 services that the Commission does provide are limited to the delivery of emergency calls and do not encompass all services associated with the 911 system. For example,

the Commission funds telephone equipment and network costs that are essential to connect callers to 911 answering centers. It does not pay for salaries of call takers and emergency service dispatchers, nor does it fund the costs of police, ambulance and fire department dispatch equipment.

The Commission delivers 911 services primarily through the state's COGs. To achieve statewide coordination of the COG-based 911 system, the Commission reviews and approves funding for regional plans submitted by COGs and distributes 911 equalization grants raised by a surcharge on intrastate long-distance telephone calls. The Commission also plays a role in assigning physical addresses in the state, providing public education about 911, training call takers, providing an accessible system to people with disabilities, and providing input on regulatory matters before telephone regulatory agencies. These points are discussed in the following sections.

Commonly Used 911 Acronyms

ANI *Automatic Number Identification* - allows 911 operators to automatically receive caller's name and phone number. All Texas 911 systems operate at this level, as required by statute.

ALI *Automatic Location Identification* - allows 911 operators to automatically receive caller's address. While this level of service is not required by statute, it is a goal of the Commission. Currently, 79 percent of the state has the capability to operate at this level of service.

PSAP *Public Safety Answering Point* - the call centers responsible for answering 911 calls and routing them to the appropriate emergency responder (such as police, fire department, or ambulance). Currently, Texas has 570 PSAPs.

REVIEW OF REGIONAL PLANS

The major way the Commission controls the part of the 911 system under its jurisdiction is through the review and funding of regional plans. These statutorily-required plans describe how each COG will spend its Emergency Service Fee revenue to implement 911 service in its region in five-year increments, and are referred to by the agency as strategic plans. Commission rules require COGs to update their strategic plans annually and when changes in spending patterns are made. The plans and updates provide detailed financial information about each spending line item in the COG's 911 service area.

The Commission also requires COGs to incorporate the State's standards into the plans. The statute gives the Commission authority to enforce standards for equipment as well as call center operation. In practice, the Commission's standards apply mainly to the call centers. Examples of these standards include the implementation of automatic number identification service, 24-hour per day operation of the call center, redundancy of key telecommunications components, and ability to accept calls from cellular phones. The Commission does not have authority to enforce standards on the training of call takers.

The agency ensures adherence to its standards by funding only the conforming items. For example, since the Commission funds only the costs associated with 911 call delivery and not emergency service dispatch, a request for a radio system to connect patrol cars to a dispatch point would not be approved. The Commission also shares costs with local governments on items that have dual use. Examples of dual-use items include computer work stations and tape recorders that may be used for both 911 and dispatch call playback.

DISTRIBUTION OF 911 EQUALIZATION FUNDS

In addition to approving the spending of telephone line fees in the regional plans of COGs, the Commission also distributes 911 Equalization Surcharge funds. This surcharge is intended to supplement areas where the cost of providing 911 service is greater than the revenues generated by the 911 service fee. The Commission collects this charge from all intrastate long-distance calls in all parts of the state, regardless of whether the region participates in the State's 911 system.

Because these funds are assessed across the state, the grants are available to COGs, Emergency Communication Districts, and cities. COGs usually request funds to supplement their 911 service fees because the region is in a rural or high-cost service area. Emergency Communication Districts and

The Commission
controls its part of
the State's 911
system through the
review and funding of
regional plans.

cities typically request funds for special, demonstration-type projects that have statewide implications. Examples of recent special projects include an attempt to fully integrate wireless 911 calls into standard 911 service and a project that attempted to consolidate several public safety answering points into a single answering center. To receive a grant of equalization funding, districts and cities must agree to comply with the Commission's standards that may apply in the grant area.

ADDRESSING

Having an accurate set of addresses is important to 911 systems. Emergency responders cannot find callers quickly without knowing their physical addresses — rural routes and post office box numbers are not helpful for locating callers in need of emergency assistance. In a large state with many

rural areas like Texas, assigning physical addresses can be an expensive, long-term undertaking. In 1987, more than 3.5 million Texans in 246 of the state's 254 counties either did not have physical addresses or had inaccurate addresses.² The textbox, *Addressing the State*, gives information about what the addressing process entails.

Addressing the State

Addressing is the process of assigning physical addresses, often in place of rural route numbers and other non-physical location schemes. Addressing also includes correcting existing addressing errors and resolving assignment problems; notifying residents, post offices, and phone companies of new addresses; installing street signs; and establishing methods for maintaining addressing patterns when new development occurs.

In Texas, many locations in rural areas use post office boxes and rural route numbers assigned by the US Postal Service. To address these areas, streets and roads must be named and street addresses, with house numbers, must be assigned. Because of the size of the state and its rural areas, the addressing process can take many years.

As the Commission worked to enhance the State's 911 system to one that automatically provides call takers with the location of callers, accurate addresses were needed for the state. In 1989, the Commission studied the problems of assigning addresses in Texas and found that the project was hindered by a lack of specific authority at the local and state levels, technical knowledge, and available funding.

In 1989, the Legislature gave county commissioner courts authority to assign addresses. Because counties lacked the necessary technical knowledge, the Commission developed a program to assist counties to implement addressing projects. The Commission also solicited donations and grants from utilities and state and federal agencies. As a result of this

fund-raising campaign, the Commission raised \$4.2 million in gifts and grants for the project.³ By 1997, 25 counties had completed their addressing projects and 200 counties were in various stages of their projects.⁴ The Commission estimates that completion of all addressing projects in the state and maintenance of these new addressing schemes will cost \$34 million through 2001.⁵

PUBLIC EDUCATION

Educating the public on when to call 911, and what to tell the call taker about themselves and their emergencies, is an important part of any 911 system. The technical sophistication of a 911 system counts for little if the public does not know it exists or how to use it. The Commission surveys the public to determine educational needs and then designs programs to fill those needs. Through this process, the agency focuses its educational activities on children, the elderly, cellular phone users, non-English speakers, and the hearing-impaired. While the Commission designs educational programs, it does not have direct contact with the public. Instead, local 911 authorities bring these educational programs to the public.

The Commission's largest and most successful public education effort is the 911 For Kids program. The goal of this program is to reach every child between the ages of four and seven in the state, using a mascot, Red E. Fox, classroom materials, and videos, to educate children on how to use 911. An example of the Commission's public education material is found in the graphic, *911 For Kids Program Mascot, Red E. Fox*. Recently the Commission targeted an expansion of the 911 For Kids program directed towards Spanish-speaking and hearing-impaired children. The Commission estimates that, in fiscal year 1997, 911 For Kids reached 250,000 children. Between January and July of 1998, the agency distributed 39,000 classroom kits across the state with each kit containing materials for 25 children - enough to reach every child aged four to seven in Texas.⁶



911 For Kids
Program Mascot,
Red E. Fox

In addition to its statewide public education programs, the Commission also assists COGs in developing their own education programs. To do this, the agency provides presentation materials and handbooks to the COGs' 911 educators and buys bulk educational materials to resell to local 911 authorities, including COGs, Emergency Communication Districts, and cities.

TRAINING OF CALL TAKERS

Rapidly advancing emergency communications technology and high attrition rates among 911 call takers has created a demand for continuous and up-to-date training of call takers. However, the Commission has very limited involvement in 911 call taker education because Texas has not established training standards for this specialized area of public safety communications. While the agency cannot set training standards or certify call takers, it does recommend minimum training standards to all entities in the 911 system on a voluntary basis. These recommended standards are developed with assistance from national 911 associations. In cooperation with the Texas Commission on Law Enforcement Officer Standards and Education and the

Department of Public Safety, the Commission has developed a 40 hour training class for regional emergency communications trainers and computer-aided training modules to be used by call takers on an individual basis.

ACCESSIBILITY

The federal Americans with Disabilities Act requires emergency communications to be accessible by people with disabilities, especially those with hearing impairments. As a result, 911 call centers must have specialized equipment, such as Telecommunications Devices for the Deaf (TDDs), that permit communication with the deaf. The Commission distributes TDD equipment to the state's public safety answering points and requires COGs to include in their strategic plans programs designed to improve communications with the hearing impaired. These programs may include call taker training in use of TDD equipment and public education to increase 911 awareness in the deaf community. The agency also contracts with a relay service that acts as a third-party agent to help when the caller does not have access to a TDD or has incompatible equipment.

Foreign languages may also present a communication barrier. While some large answering centers have Spanish-speaking call takers, most do not. To allow non-English speakers to access emergency services, the Commission contracts with AT&T for language line services. This contract provides 24-hour interpretation of more than 140 foreign languages. The Commission requires COGs to include the pro-rated cost of this contract in their strategic plan.

Competition among telephone companies greatly complicates the provision of 911 service.

REGULATORY ACTIVITIES

One function that the Commission performs for the benefit of the entire 911 system in Texas is to monitor and intervene in telephone regulatory processes at the Public Utility Commission (PUC) and the Federal Communications Commission (FCC). This role has increased in prominence in recent years due to the Legislature's major revisions to the Public Utility Regulatory Act in 1995 and the federal Telecom Act of 1996. Both pieces of legislation were designed to foster competition in telephone communications. However, greater competition means that 911 providers must deal with an increased number of telephone companies, which greatly complicates the provision of emergency communications.

In response to these pressures, the Commission has taken on the role of coordinating the 911 community's input to the regulatory agencies. For example, the Commission has created a model contract for use by 911 entities to ensure that new telephone providers properly address emergency

communication needs. In other cases, the Commission has provided comment on telephone dockets before the PUC and FCC.

Poison Control Services

The Legislature created the Texas Poison Control Network in 1993 in an effort to provide an easily-accessible emergency response to the public in case of accidental poisonings and exposures to potentially harmful substances. The mission of the Network is to:

- reduce the frequency, severity, and cost of poisonings in Texas;
- provide information on the toxicity of various substances and assist in the treatment of poisoned patients;
- educate health care professionals and the citizens of Texas about poisons; and
- support research in toxicology through the collection of data about poisonings.

To accomplish its mission, the Network provides 24-hour, toll-free access to poison treatment information to both the public and health professionals through its statewide telephone number, 1-800-POISON-1. The Network also promotes poison awareness and prevention education and participates in the training and education of health care professionals. Another function of the Network is to share its knowledge of toxicology and poisoning data with the health care industry to improve the treatment and reduce the effects of exposures to harmful substances.

Aside from the benefits of reducing the number of injuries and deaths resulting from poisonings, the State's poison centers also reduce the medical costs of treating exposures to potentially harmful substances. More than 72 percent of calls to the Network are safely handled at the caller's home under the direction of the poison center's staff. As a result, emergency medical services can be saved for more serious cases and the caller avoids an expensive trip to the hospital. According to national studies, for every dollar spent on poison center services, communities save between \$6 and \$9 in unnecessary emergency health care costs.⁷ Further, poison centers reduce hospital usage by 14 percent and emergency room admittance by 27 percent.⁸

ADMINISTRATION OF THE TEXAS POISON CENTER NETWORK

The Commission and the Texas Department of Health (TDH) jointly administer the Texas Poison Center Network. Together, the two agencies adopt rules regarding the operation of the Network, many of which concern

The Texas Poison Control Network provides 24-hour access to poisoning information through its toll-free number, 1-800-POISON-1.

Each dollar spent on poison center services can save up to \$9 in unnecessary emergency health care costs.

The Poison Control Network is a partnership between the Commission and the Department of Health — the Commission provides telecommunications knowledge and TDH provides medical expertise.

the funding of the six poison centers. The agencies are responsible for adopting criteria for awarding the money collected from the poison surcharge to the individual poison centers. The Commission's role in funding the Network is mainly to set the rate of the poison surcharge and collect revenues from telephone companies. The Commission then passes this money to TDH, as needed. TDH distributes the money among the six centers based on each center's annual budget which must be approved by staff from the Commission and TDH.

Aside from the joint funding responsibilities of the Commission and TDH, each agency plays other important roles in the operation of the poison center network. For instance, TDH employs an epidemiologist to compile call data to help determine trends in the frequency and types of poisonings. In addition to collecting poison surcharge revenue, the Commission provides technical support for the poison centers' telecommunications equipment. The Commission purchases all of the Network's equipment and contracts for its installation and maintenance.

OPERATION OF THE POISON CONTROL CENTERS

The Texas Poison Center Network consists of six poison centers distributed throughout the state. The map, *Texas Poison Center Network*, shows the location and region covered by each of the centers.

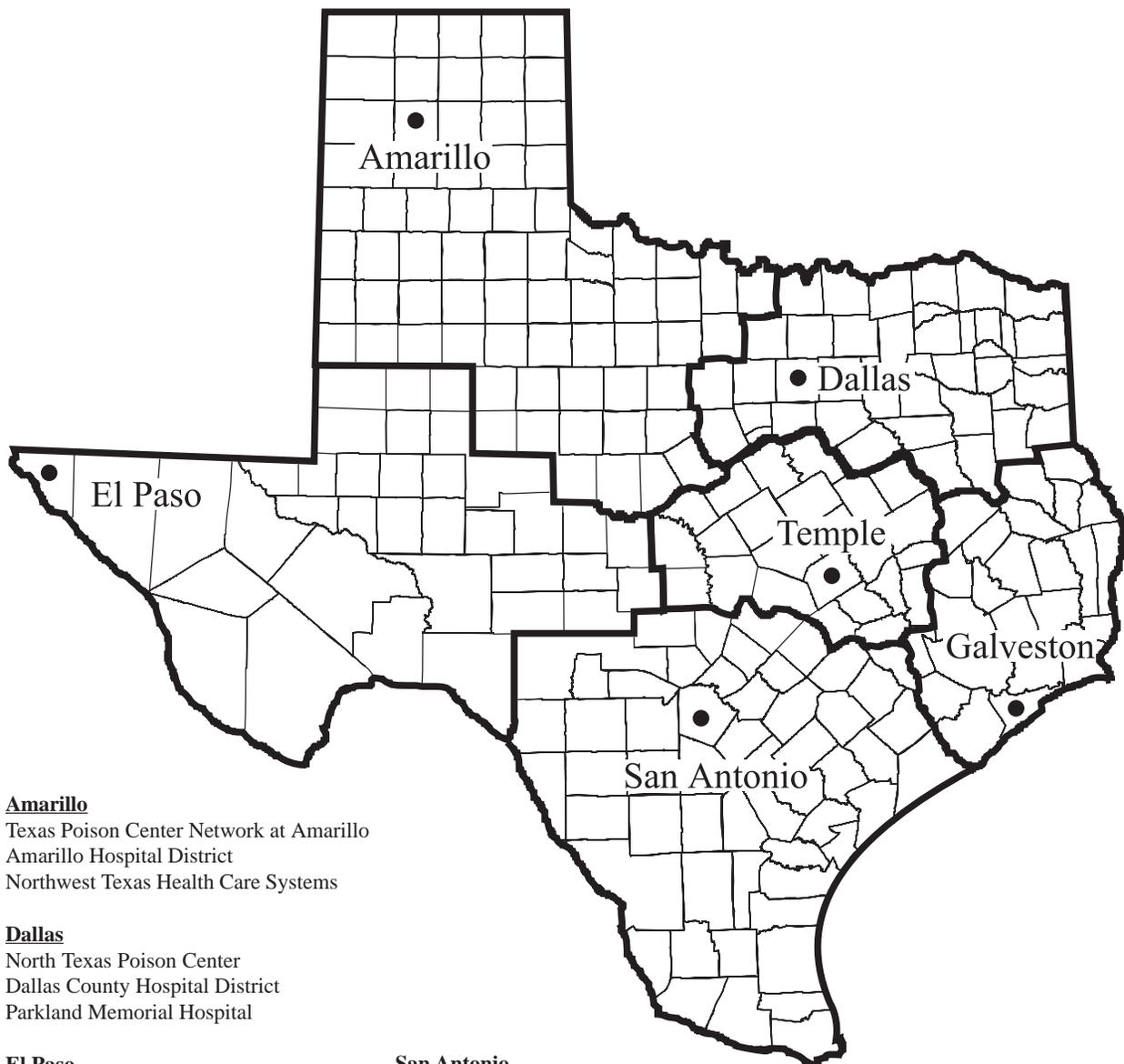
According to the Network's enabling statute, the centers must meet the certification criteria of the American Association of Poison Control Centers. While this national association has many requirements for poison centers to be accredited, the most important is that the centers provide the public and health care professionals with 24-hour, toll-free telephone access to poison information and referral services.

Revenues collected from the Poison Control Surcharge pay all operational costs of the centers, including salaries, indirect administrative costs, public education, travel, and supplies. Several of the centers' host hospitals provide in-kind support such as office space to house the center and utilities. The table, *Poison Center Network Operational Statistics — Fiscal Year 1997*, shows detail on the centers' activities.

In fiscal year 1997, the Texas Poison Center Network answered more than 335,000 calls. In Texas, about 53 percent of poison exposures occurred in children age five years and under.⁹ Consequently, the most frequent users of poison center services are the parents and care givers of small children. Medical professionals also use the services of the poison centers and many calls come from emergency rooms, hospital intensive care units, and

More than half of the Poison Network's 335,000 calls last year concerned poisonings of children under six years old.

Texas Poison Center Network



Amarillo
 Texas Poison Center Network at Amarillo
 Amarillo Hospital District
 Northwest Texas Health Care Systems

Dallas
 North Texas Poison Center
 Dallas County Hospital District
 Parkland Memorial Hospital

El Paso
 West Texas Regional Poison Center
 Thomason Hospital

San Antonio
 South Texas Poison Center
 University of Texas Health Science
 Center at San Antonio

Galveston
 Southeast Texas Poison Center
 University of Texas Medical
 Branch at Galveston

Temple
 Central Texas Poison Center
 Scott & White Hospital

physicians offices. Most poison exposures are due to products and substances commonly found around the home such as over-the-counter and prescription drugs and household cleaning products. All calls are handled by nurses, pharmacists, or paramedics with special training in toxicology.

Poison Center Network Operational Statistics Fiscal Year 1997					
Center	Population Served	Call Volume	Funding Received	Cost per Call	Number of Full-time Equivalent Employees
Amarillo	1,296,422	20,437	\$570,014	\$27.89	9.0
Dallas	5,927,922	99,799	\$1,145,838	\$11.48	19.4
El Paso	1,274,835	18,714	\$799,994	\$42.75	9.0
Galveston	5,016,440	111,873	\$1,227,478	\$10.97	18.5
San Antonio	3,555,159	45,723	\$927,445	\$20.28	14.5
Temple	1,896,986	38,654	\$801,563	\$20.74	13.5
TOTAL	18,967,764	335,200	\$5,472,332	\$16.33	83.9

POISON CONTROL COORDINATING COMMITTEE

The Legislature created the Poison Control Coordinating Committee to advise the Texas Board of Health and the Commission on poison control issues. The statutory composition of this Committee is given in the Policymaking Body section of this report. In practice, the Committee that meets is composed of the director and medical director from each of the poison centers and a staff representative from both the Commission and TDH. Examples of tasks performed by coordinating committee include:

- a study of the feasibility of contracting the Network's services to other states, as directed by the Legislature;
- reporting to the Board of Health on the frequency and types of poisonings occurring in the state; and
- suggesting rules and procedures for the operation of the poison centers to the Commission and the Board of Health.

TELECOMMUNICATIONS SYSTEM

The telecommunications system that makes the Texas Poison Center Network possible is distinctly different from that of the State's 911 system. Unlike the 570 answering points for 911, the six poison centers are linked together by a common network. This network was fully implemented in the summer of 1996 by the Commission with the following capabilities:

- automatic call routing to the nearest poison center;
- automatic re-routing of calls to another center if the nearest one is overloaded with calls or is unable to take calls because of equipment problems;
- access to the caller's phone number and location information, where available; and
- staff access to common medical databases containing information about potentially harmful substances and how to treat poisonings.

A single network links Texas' six poison centers and allows for the automatic re-routing of calls away from busy centers.

By the end of 1998, the final phase of the poison computer system will be implemented. A centralized database in San Antonio will maintain patient call records collected throughout the Poison Center Network and make them accessible to each center. As a result, one center will be able to view records of a caller's previous call, even if that call was handled at a different center.

¹ Office of the State Auditor, State of Texas, *An Audit Report on the Statewide 911 System*, Report No. 98-054 (Austin, Tex., July 1998), p. 1.

² Advisory Commission on State Emergency Communications, *Self Evaluation Report to the Sunset Advisory Commission*, (Austin, Tex., September 1997), p. 15.

³ Advisory Commission on State Emergency Communications, *Strategic Plan 1999-2003* (Austin, Tex., June 15, 1998), p. 15.

⁴ *Self Evaluation Report to the Sunset Advisory Commission*, p. 15.

⁵ *Strategic Plan 1999-2003*, p. 15.

⁶ Phone interview with Sherry Powell, Public Education Coordinator, Advisory Commission on State Emergency Communications, July 10, 1998.

⁷ *The Poison Experts: Texas Poison Center Network Annual Report - 1996*, p. 5.

⁸ Texas Performance Review, Comptroller of Public Accounts, State of Texas, *Disturbing the Peace* (Austin, Tex., 1996), p. 417.

⁹ *The Poison Experts: Texas Poison Center Network Annual Report - 1996*, p. 6.

APPENDIX

APPENDIX

Best Practice Contract Administration*	
Action	Components
Planning	Agencies should conduct effective planning before they make contracting decisions: <ul style="list-style-type: none"> ● use of a formalized planning process to examine service needs and develop contract expectations; ● appropriate approval by oversight entities; and ● development of detailed RFBs/RFPs.
Contract Award	Agencies should use bid evaluation procedures that ensure selection of the best overall vendor: <ul style="list-style-type: none"> ● bids evaluated on specific criteria contained in RFBs/RFPs; ● evaluation criteria place emphasis on factors other than price such as technical factors, vendor experience, and past performance; ● bids evaluated by a team consisting of both contracting and user personnel; and ● eligible vendors are screened based on past performance and other related factors.
Monitoring Contractor Performance	Agencies should continually monitor contractor performance: <ul style="list-style-type: none"> ● specific contract and quality assurance monitoring provisions should be included in the contract; ● contract management participation should include all relevant parties (financial, regulatory, program, etc.); and ● level of monitoring should be consistent with size of contract and risk.
Performance Measures	Contracts should contain provisions designed to hold contractor accountable: <ul style="list-style-type: none"> ● contracts should include clearly defined goals, outputs, and measurable outcomes that directly relate to program objectives.
Sanctions	Contracts should include clearly defined sanctions or penalties for noncompliance with contract terms and conditions such as performance bonds, liquidated damages clauses, and retainage clauses.
Financial Controls	Contracts should clearly specify the accounting, reporting, and auditing requirements applicable to funds received under the contract.
Risk Management	Agencies should set up a formal program using a risk assessment methodology to monitor compliance with financial and performance requirements under the contracts, including a determination of whether the contractor has achieved performance objectives.
Payment Methods	Agencies should set up a formal program to obtain and evaluate program cost information to ensure that all costs, including administrative costs, are reasonable and necessary to achieve program objectives.
Extensions and Modification of Scope	Contracts should contain provisions giving the agency flexibility to adjust to changing requirements: <ul style="list-style-type: none"> ● documented procedures establishing the requirements for controlling contract amendments; ● require approval and sign-off of the changes by key agency users, management, steering committees, and board members; and ● independent analysis of contract amendments.
Post-Implementation Review	Agencies should conduct post-implementation performance reviews to analyze contractor performance: <ul style="list-style-type: none"> ● analyze the cost-benefit of continuing the contract with the initial contractor; and ● use of an audit compliance tracking system to monitor significant findings to ensure corrective action occurs.
Management Information Systems	Agencies should develop information systems that support centralized contractor databases: <ul style="list-style-type: none"> ● identify duplicate payments on both intra-and interagency basis; and ● compile performance data on contractors for use in eligibility screening.

* Texas Sunset Advisory Commission, *Department of Protective and Regulatory Services: Sunset Staff Report* (1996), p. 64.

**ADVISORY COMMISSION ON STATE
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