

Introduced by Legislators Schneiderman, Kennedy, Gregory, Krupski and Horsley

**RESOLUTION NO. 1131 -2013, ADOPTING LOCAL LAW
NO. 3 -2014, A LOCAL LAW TO STRENGTHEN SUFFOLK
COUNTY'S E-911 SERVICE**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on July 30, 2013, a proposed local law entitled, "**A LOCAL LAW TO STRENGTHEN SUFFOLK COUNTY'S E-911 SERVICE**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 3 -2014, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO STRENGTHEN SUFFOLK COUNTY'S E-911
SERVICE**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk previously implemented funding mechanisms to establish and maintain an enhanced 911 system, and thereby provide stronger public safety protection for County residents.

This Legislature also finds that presently, enhanced 911 services are provided through twelve Public Safety Answering Points ("PSAPs") including the Suffolk County Police Department, the Department of Fire, Rescue and Emergency Services and ten non-County PSAPs.

This Legislature further finds that the Suffolk County Department of Audit and Control recently conducted an audit of E-911 surcharge revenue and issued findings and recommendations regarding this program.

This Legislature determines that certain recommendations offered by the Department of Audit and Control and other changes recommended by the PSAPs should be implemented to ensure that the E-911 system continues to operate efficiently for the benefit of all Suffolk County residents.

Therefore, the purpose of this law is to amend Chapter 441 of the Suffolk County Code to implement changes to the County's E-911 program recommended by the Department of Audit and Control and the non-County PSAPs, and to ensure adequate and timely funding for the non-County PSAPs.

Section 2. Amendments.

I. Chapter 441 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 441.

EMERGENCY TELEPHONE SYSTEM

**Article I.
Enhanced 911 System**

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§ 441-2. Definitions.

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SUFFOLK COUNTY E-911 COMMISSION

A. A committee comprised of the following members:

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(2) One member from the County Executive’s Office to be appointed by the County Executive[, who shall be the Chairman].

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D. The Commission shall annually elect a member to serve as Chairperson of the Commission.

SYSTEM COSTS - The costs associated with obtaining and maintaining the telecommunication equipment, all operations and maintenance costs and the telephone services costs necessary to establish and provide the enhanced 911 system.

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§ 441-3. Authorization for installation; insurance; intermunicipal agreement required.

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C. No PSAP, excluding the Suffolk County Police Department PSAP and the Department of Fire, Rescue and Emergency Services PSAP (“non-County PSAP”) shall qualify as such or be designated as such under this [article] chapter unless it first agrees to enter into an intermunicipal agreement with Suffolk County outlining the responsibilities and liabilities of both the County and the [local municipality] non-County PSAP as a precondition to such qualification or designation, including but not limited to the [local municipality/] non-County PSAP accepting sole responsibility for the cost and expense of [providing the necessary space, heat, electricity, air conditioning, water, furniture, furnishings and remodeling, if any for the PSAP it operates, together with all personal costs associated with staffing and] operating its PSAP.

D. Any non-County PSAP receiving monies pursuant to this chapter shall agree to separately account for and keep adequate books and records of the amount and source of all revenues received for system costs, from whatever source derived or received, and of the amount and object of each expense or purpose of every expenditure thereof. The non-County PSAP shall further agree to the inspection and audit of such accounts, by a duly authorized representative of the County of Suffolk, as deemed necessary by the County.

§ 441-4. Surcharge.

- A. The service supplier is hereby authorized, empowered and directed, in accordance with state law, to impose a surcharge of \$0.35 per access line per month on each service supplier's subscriber in Suffolk County to pay for the costs associated with implementing, installing, operating and maintaining [said systems] the telecommunication equipment and telephone services needed to provide an enhanced 911 emergency telephone system. On the date of the passage of this article, the service supplier shall be authorized to begin to add such surcharge to the billings of its customers. Within 30 months from the date of the passage of this article, enhanced 911 services are authorized to begin.

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§ 441-5. Collection of surcharge.

- A. The appropriate service supplier or suppliers serving a 911 service area shall act as collection agent for Suffolk County and shall remit the funds collected as the surcharge to the Suffolk County [Comptroller] Police Department each month. Such funds shall be remitted no later than 30 days after the last business day of such period.

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- D. [The] Each service supplier shall maintain adequate records to permit the review of the surcharge amounts billed and collected and shall annually provide to the Suffolk County Comptroller an accounting of the surcharge amounts billed and collected within 45 days of the end of the service provider's fiscal year.

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§ 441-7. System revenues; adjustment of surcharge.

- A. All surcharge moneys remitted to the County of Suffolk by a service supplier and all other moneys dedicated to the payment of system costs from whatever source derived or received by the County of Suffolk shall be expended only upon appropriation of the County Legislature and only for payment of system costs as permitted by this article. The County of Suffolk shall separately account for and keep adequate books and records of the amount and source of all such revenues and of the amount and object or purpose of all expenditures thereof. If at the end of any fiscal year the total amount of all such revenues exceeds the amount necessary and expended for payment of system costs in such fiscal year, such unencumbered cash surplus shall be carried over for the payment of system costs in the following fiscal year. If at the end of any fiscal year such unencumbered cash surplus exceeds an amount equal to 5% of that necessary for the payment of system costs in such fiscal year, the County Legislature shall by local law reduce the surcharge for the following fiscal year to a level which more adequately reflects the system costs requirements of its enhanced 911 system. The County Legislature may also by local law reestablish or increase such surcharge if the revenues generated by such surcharge and by any other source are not adequate to pay for system costs.

B. No less than 20% of the surcharge moneys remitted by the service providers to the County for landline and VOIP services pursuant to this article in any fiscal year shall be allocated to the non-County PSAPs. The amount allocated to each individual non-County PSAP shall be determined by a majority of the representatives of the non-County PSAPs of the E-911 Commission and set forth in the intermunicipal agreement required under § 441-3 of this chapter.

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§ 441-9. System operation and funding.

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C. [Costs incurred for personnel needed to operate an enhanced 911 system, including training and compensation thereof, the housing of system equipment and related costs and all other] All costs not included within the definition of “system costs” shall be a County expense subject to the provisions of § 441-3C of this article.

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E. Surcharge moneys remitted by the service providers to the County pursuant to this article in any fiscal year, and allocated to the non-County PSAPs in the annual budget, shall be distributed to the non-County PSAPs in proportion to the actual cash collections and shall be made quarterly, within sixty (60) days of the end of each quarter. In no event will surcharge moneys be distributed to any non-County PSAP in the absence of an intermunicipal agreement between the County and the non-County PSAP.

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**Article II.
Enhanced Wireless 911 Service**

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§ 441-14. Collection of surcharge.

A. Each wireless communications service supplier serving the County of Suffolk shall act as a collection agency for the County and shall remit the funds collected pursuant to this article to the Suffolk County [Comptroller] Police Department within 30 days after the last business day of the month.

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E. Each wireless communications service supplier subject to this article shall maintain adequate records to permit the review of the surcharge amounts billed and collected and shall annually provide to the Suffolk County Comptroller an accounting of the surcharge amounts billed and collected [and billed] within 45 days of the end of the service providers' fiscal year.

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§ 441-16. Use of surcharge monies.

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- C. No less than 20% of the surcharge moneys remitted by the service providers to the County pursuant to this article in any fiscal year shall be allocated to the [Public Answering Points, excluding the Suffolk County Police Department PSAP.] non-County PSAPs. The amount allocated to each non-County PSAP shall be determined by a majority of the representatives of the non-County PSAP's of the E-911 Commission and set forth in the intermunicipal agreement required under § 441-3(C) of this Chapter.

- D. Surcharge moneys remitted by the service providers to the County pursuant to this article in any fiscal year are allocated to non-County PSAP's in the annual budget shall be distributed to the PSAP's based in proportion to the actual cash collections and made quarterly within sixty (60) days of the end of each quarter. In no event, will surcharge moneys be distributed to a non-County PSAP in the absence of an intermunicipal agreement between the County and the PSAP.

Article III.
Enforcement of Service Supplier Responsibilities

§ 441-17 Penalties.

- A. Any service supplier who fails to comply with the provisions of this Chapter shall be subject to a civil penalty of not more than \$250 per day that the required accounting of the surcharge amounts billed and collected is not received, not to exceed \$5,000 per year.

- B. Such civil penalties may be recovered after a hearing on written notice.

Section 3. Applicability.

This law shall apply to actions occurring on or after the effective date of this law, except that the provisions of this law governing the funding of, and the distribution of funding to, non-County PSAP's will apply beginning in Fiscal Year 2014.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED: December 3, 2013

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: December 20, 2013

After a public hearing duly held on December 11, 2013
Filed with the Secretary of State on January 14, 2014