

H. B. 2871

(By Delegate Howell (By Request))

[Introduced February 20, 2015; referred to the
Committee on Government Organization.]

**FISCAL
NOTE**

10 A BILL to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended; to amend
11 and reenact §5A-6-8 of said code; and to amend said code by adding thereto a new article,
12 designed §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8,
13 §15-14-9 and §15-14-10, all relating to creating the statewide Interoperable Radio Network;
14 establishing a short title; defining terms; establishing objectives and a purpose; creating the
15 statewide Interoperable Radio Network; creating the statewide Interoperable Coordinator;
16 prescribing duties for the statewide Interoperability Coordinator; creating the statewide
17 Interoperability Executive Committee; prescribing duties for the statewide Interoperability
18 Executive committee; creating the Regional Interoperability Committees; providing for
19 disposition of assets and staffing of the statewide Interoperable Radio Network; establishing
20 a special revenue account for the statewide Interoperable Radio Network; exempting the
21 statewide Interoperable Radio Network from certain Purchasing Division requirements; and
22 authorizing emergency and legislative rule-making.

1 *Be it enacted by the Legislature of West Virginia:*

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

6 **CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

7 **ARTICLE 3. PURCHASING DIVISION.**

8 **§5A-3-3. Powers and duties of Director of Purchasing.**

9 The director, under the direction and supervision of the secretary, shall be the executive
10 officer of the Purchasing Division and shall have the power and duty to:

11 (1) Direct the activities and employees of the Purchasing Division;

12 (2) Ensure that the purchase of or contract for commodities and services shall be based,
13 whenever possible, on competitive bid;

14 (3) Purchase or contract for, in the name of the state, the commodities, services and printing
15 required by the spending units of the state government;

16 (4) Apply and enforce standard specifications established in accordance with section five of
17 this article as hereinafter provided;

18 (5) Transfer to or between spending units or sell commodities that are surplus, obsolete or
19 unused as hereinafter provided;

20 (6) Have charge of central storerooms for the supply of spending units, as the director deems
21 advisable;

22 (7) Establish and maintain a laboratory for the testing of commodities and make use of

1 existing facilities in state institutions for that purpose as hereinafter provided, as the director deems
2 advisable;

3 (8) Suspend the right and privilege of a vendor to bid on state purchases when the director
4 has evidence that such vendor has violated any of the provisions of the purchasing law or the rules
5 and regulations of the director;

6 (9) Examine the provisions and terms of every contract entered into for and on behalf of the
7 State of West Virginia that impose any obligation upon the state to pay any sums of money for
8 commodities or services and approve each such contract as to such provisions and terms; and the
9 duty of examination and approval herein set forth does not supersede the responsibility and duty of
10 the Attorney General to approve such contracts as to form: *Provided*, That the provisions of this
11 subdivision do not apply in any respect whatever to construction or repair contracts entered into by
12 the Division of Highways of the Department of Transportation: *Provided, however*, That the
13 provisions of this subdivision do not apply in any respect whatever to contracts entered into by the
14 University of West Virginia Board of Trustees or by the board of Directors of the state College
15 System, except to the extent that such boards request the facilities and services of the director under
16 the provisions of this subdivision. However, this subdivision does not apply to construction or repair
17 contracts entered into by the state for the emergency construction or repair of the statewide
18 Interoperable Radio Network created by article fourteen, chapter fifteen of this code;

19 (10) Assure that the specifications and descriptions in all solicitations are prepared so as to
20 provide all potential suppliers-vendors who can meet the requirements of the state an opportunity
21 to bid and to assure that the specifications and descriptions do not favor a particular brand or vendor.
22 If the director determines that any such specifications or descriptions as written favor a particular

1 brand or vendor or if it is decided, either before or after the bids are opened, that a commodity or
2 service having different specifications or quality or in different quantity can be bought, the director
3 may rewrite the solicitation and the matter shall be rebid; and

4 (11) Issue a notice to cease and desist to a spending unit when the director has credible
5 evidence that a spending unit has violated competitive bidding or other requirements established by
6 this article and the rules promulgated hereunder. Failure to abide by such notice may result in
7 penalties set forth in section seventeen of this article.

8 **ARTICLE 6. OFFICE OF TECHNOLOGY.**

9 **§5A-6-8. Exemptions.**

10 (a) The provisions of this article do not apply to the Legislature, the judiciary or any state
11 Constitutional officer designated in section two, article seven, chapter six of this code.

12 (b) Notwithstanding any other provision of this article to the contrary, except for participation
13 in the compilation and maintenance of an inventory of information technology and technical
14 infrastructure of the state authorized by section four of this article, the provisions of this article do
15 not apply to the West Virginia Board of Education, the West Virginia Department of Education, or
16 the county boards of education or the West Virginia Division of Homeland Security and Emergency
17 Management, including information related to the design, location, equipment and operations of the
18 statewide Interoperable Radio Network along with flexibility to lease tower space to private
19 companies pursuant to terms agreeable to the division that includes a confidentiality agreement, as
20 it relates to the statewide Interoperable Radio Network, created by article fourteen, chapter fifteen
21 of this code. However, the West Virginia Board of Education, the West Virginia Department of
22 Education and the county boards of education will attempt to cooperate and collaborate with the

1 Chief Technology Officer to the extent feasible.

2 (c) The Governor may by executive order exempt from the provisions of this article any entity
3 created and organized to facilitate the public and private use of health care information and the use
4 of electronic medical records throughout the state.

5 **CHAPTER 15. PUBLIC SAFETY.**

6 **ARTICLE 14. THE STATEWIDE INTEROPERABLE RADIO NETWORK.**

7 **§15-14-1. Short title.**

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

10 **§15-14-2. Definitions.**

11 "Director" means the Director of West Virginia Division of Homeland Security and
12 Emergency Management.

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

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

20 "Statewide Interoperability Executive Committee" or "Executive Committee" means the
21 governing body of the SIRN.

22 "WVDHSEM" means the West Virginia Division of Homeland Security and Emergency

1 Management.

2 "Regional Interoperability Committee" means the committee or committees that assist the
3 SWIC and the Executive Committee with governing and monitoring the implementation and
4 operation of the SIRN and establishing goals for the betterment of the SIRN.

5 **§15-14-3. Purpose and objectives.**

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

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

15 **§15-14-4. Appointment of the statewide Interoperability Coordinator.**

16 (a) On or before July 1, 2015, the Governor shall appoint the statewide Interoperability
17 Coordinator from a recommendation of the statewide Interoperability Executive Committee (SIEC),
18 who shall be employed by and report to the director. The coordinator shall have at a minimum five
19 years experience in overseeing and managing major communications systems and supervising
20 employees.

21 (b) The coordinator shall oversee the state's interoperable communications efforts in planning
22 and coordinating a statewide interoperable radio network that serves the state's first responders and

1 other users of the network.

2 (c) The coordinator shall provide recommendations to the director to determine statewide
3 priorities related to interoperable communications and shall work with all agencies to ensure the
4 greatest input in to the plans.

5 (d) The coordinator shall ensure all interoperable communications funds and functions of this
6 state are coordinated to the maximum extent with the comparable functions of the federal
7 government including its various departments and agencies, of other states and localities and of
8 private agencies of every type, so that the most effective preparation and use may be made of the
9 nation's and this state's communications resources and facilities for dealing with any disaster or
10 emergency that may occur.

11 (e) The coordinator will provide the statewide Interoperable Radio Network approved
12 compatibility equipment list to any state spending unit or state agency, including purchases on behalf
13 of state agencies, county and local first responder agencies for purchases of two-way radio,
14 microwave or satellite equipment and related services, or purchases that utilize state or federal funds
15 distributed to local entities by the State of West Virginia.

16 (f) The coordinator is the point of contact for any public or private entity or individual
17 seeking information about the Radio Network;

18 (g) Prior to any state agency proceeding with a major communications project, an agency
19 shall submit to the coordinator a project proposal, outlining the need for the project, the proposed
20 technology solution, if known, and an explanation of how the project will support the agency's
21 objective and the state's strategic interoperable communications plan.

22 (h) The coordinator shall perform any other duties as may be prescribed by the Executive

1 Committee.

2 (i) If a vacancy exists in this position, the director shall appoint someone to act in this
3 capacity until the Executive Committee makes its recommendations and the Governor appoints a
4 replacement.

5 **§15-14-5. The Statewide Interoperability Executive Committee.**

6 (a) The Statewide Interoperability Executive Committee shall consist of the following
7 members or their designee:

8 (1) The Director of the WVDHSEM;

9 (2) The Superintendent of the West Virginia State Police;

10 (3) The President of the West Virginia Emergency Management Council;

11 (4) The Adjutant General of the West Virginia National Guard;

12 (5) The West Virginia Chief Technology Officer;

13 (6) The President of the West Virginia Enhanced 911 Council;

14 (7) The President of the West Virginia Sheriffs' Association;

15 (8) The West Virginia State Fire Marshal;

16 (9) The President of the West Virginia county commissioners' Association;

17 (10) The President of the West Virginia Municipal League;

18 (11) The Secretary of the Department of Transportation;

19 (12) The Director of the West Virginia Department of Health and Human Resources, Office
20 of Emergency Medical Services;

21 (13) One representative from each of the agencies which own one of the SIRN's zoned master
22 site switches not otherwise represented;

1 (14) The chairman of each of the Regional Interoperability Committees.;

2 (15) The Director of the West Virginia Parkways Authority; and

3 (16) The Statewide Interoperability Coordinator who shall serve in a nonvoting ex officio
4 capacity.

5 (b) The director shall serve as the chairman of the Executive Committee.

6 (c) Members of the Executive Committee shall serve without compensation. However, each
7 member of the Executive Committee may receive reimbursement from the SIRN account, for actual
8 expenses, including travel expenses, in accordance with state travel guidelines.

9 (d) The Executive Committee may appoint, as nonvoting members, individuals with technical
10 expertise that may assist with its mission.

11 **§15-14-6. Duties of the statewide Interoperability Executive Committee.**

12 The Executive Committee shall:

13 (1) Monitor the implementation and operation of the SIRN;

14 (2) Establish goals and guidance for the betterment of the SIRN;

15 (3) Review and approve all requests for use of the SIRN and its equipment, by a public or
16 private entity;

17 (4) Serve as the mechanism for developing, updating and implementing policies, procedures
18 and guidelines related to the SIRN;

19 (5) Identify new technologies and develop technologies and standards for the SIRN;

20 (6) Enhance the coordination of all available resources for public safety communications
21 interoperability;

22 (7) Report regularly at each legislative session on the implementation of the purposes set

1 forth in this article;

2 (8) Investigate all matters relating to integrity, foresight in funding and operations and
3 planning for the SIRN; and

4 (9) Coordinate the implementation of any grant funding received related to the SIRN.

5 **§15-14-7. Maintenance and Operations of the statewide Interoperable Network; personnel;**
6 **assets; agreements.**

7 (a) The director may employ such technical, clerical, legal counsel, stenographic and other
8 personnel, fix their compensation and make expenditures within the appropriation to the agency or
9 from other funds made available for the purpose of providing interoperable communications services
10 to carry out the purpose of this article.

11 (b) All of the allied, advisory, affiliated entities and funds associated with the statewide
12 interoperable radio and/or microwave network and medical command radio system and all its
13 functions, personnel and property, are transferred to, incorporated in and administered as a part of
14 the WVDHSEM.

15 (c) The director or his/her designee is responsible for all interoperable communications
16 efforts associated with any and all emergency or planned events within the state.

17 (d) The director may acquire in the name of the state by purchase, lease or gift, real property
18 and rights or easements necessary or convenient to construct thereon the necessary building or
19 buildings for housing Radio Network employees, equipment or infrastructure.

20 (e) The director or his or her designee may enter into cooperative agreements, land and tower
21 leases, memorandums of understanding/agreement, training contracts or service contracts with
22 political subdivisions of the state, other states, federal agencies, and with public or private agencies

1 for use by the radio network or the Office of Interoperable and Emergency Communications.

2 (f) The WVDHSEM is exempt from the requirements and associated fees of any local
3 ordinances of any political subdivision of the state relating to the construction of towers or other
4 infrastructure for use by the Radio Network to enhance interoperable communications.

5 (g) The WVDHSEM shall support a unified approach to interoperable communications
6 across state, county, and municipal government, to include:

7 (1) Providing ongoing assistance and support to the state's Medical Command System; and

8 (2) Providing ongoing assistance and support to state agencies in the development of
9 interoperable and emergency communications plans or projects.

10 **§15-14-8. The Regional Interoperability Committees; composition; duties.**

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

13 (b) Each Regional Interoperability Committee consists of no more than one representative
14 from each identified discipline within each region, and includes, is not limited to, the following
15 agencies, as well as those deemed necessary by the SWIC, Regional Interoperability Committee, or
16 Executive Committee to ensure public safety:

17 (1) Municipal, county or regional hospitals;

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

19 (3) Municipal, county or private transit;

20 (4) Civil Air Patrol;

21 (5) County Enhanced 911;

22 (6) Emergency medical services;

- 1 (7) Federal law enforcement;
- 2 (8) Federal government (nonlaw enforcement);
- 3 (9) Municipal or county fire service;
- 4 (10) Municipal or county health department;
- 5 (11) Higher education public safety;
- 6 (12) Municipal or county Homeland Security/Emergency Management;
- 7 (13) Private industry-critical infrastructure and key resources;
- 8 (14) Regional response team;
- 9 (15) Radio Amateur Civil Emergency Services (RACES) or Amateur Radio Emergency
10 Service (ARES);
- 11 (16) American Red Cross;
- 12 (17) Nonfirst responder state agencies;
- 13 (18) Volunteer search and rescue organizations;
- 14 (19) county commissioners' Association of West Virginia; and
- 15 (20) West Virginia Municipal League.
- 16 (c) The Regional Interoperability Committees shall:
- 17 (1) Assist the SWIC and the Executive Committee with governing and monitoring the
18 implementation and operation of the SIRN and establishing goals for the betterment of the SIRN;
19 and
- 20 (2) Serve as the mechanism for providing local level input to the Executive Committee for
21 governance, identifying and developing technologies and standards, and coordination of resources.
- 22 (d) Regional Interoperability Committee members shall serve without compensation.

1 However, each Regional Interoperability Committee member may receive reimbursement from the
2 SIRN account for actual expenses, including travel expenses, in accordance with state travel
3 guidelines.

4 **§15-14-9. Creation of the statewide Interoperable Radio Network account; purpose; funding;**
5 **disbursements.**

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

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

22 (c) Any balance remaining in the special revenue account at the end of any state fiscal year

1 shall not revert to the General Revenue Fund but shall remain in the special revenue account and
 2 shall be used solely in a manner consistent with this section.

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

6 (e) Quarterly, the director shall prepare an accounting of all moneys disbursed from the added
 7 to the SORN account. This accounting shall include the reason for the withdraw, the recipients of any
 8 withdraw, and the source of any deposit.

9 **§15-14-10. Rule-making.**

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

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

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

Article fourteen is new; therefore, it has been completely underscored.