



ALAN WILSON
ATTORNEY GENERAL

September 2, 2021

Chief G.Z. Alexander
Yemassee Police Department
PO Box 577
Yemassee, SC 29945

Dear Chief Alexander:

You have requested an opinion from this Office regarding 911 dispatch fees. You are asking whether it is legal for Hampton County to charge Yemassee a monthly fee to dispatch the police department.

LAW/ANALYSIS

As we have stated in many prior opinions, this Office is not empowered to make factual findings.¹ However, we can provide you with the applicable law. The Public Safety Communications Center Act ("Act"), S.C. Code Ann. § 23-47-10 *et seq.* (1976 Code, as amended), provides for the operation of 911 systems. Pursuant to the Act, "[a] 911 system must include all of the territory of the local government, either county, municipality, or multi-jurisdictional government." S.C. Code Ann. § 23-47-20(B)(1) (1976 Code, as amended). "Public safety agencies² that provide emergency service within the territory of a 911 system" are required to "participate in the countywide system." S.C. Code Ann. § 23-47-20(B)(2) (1976 Code, as amended). The [p]ublic safety agencies . . . , "in all cases, must be notified by the PSAP [911 call center] of a request for service in their area." S.C. Code Ann. § 23-47-20(A)(1) (1976 Code, as amended).

To fund their 911 systems,³ local governments can adopt an ordinance imposing a monthly 911 charge on telephone subscribers in the area served by the 911 service. See S.C. Code Ann. §§

¹ See *Op. S.C. Atty. Gen.*, 1989 WL 406130 (April 3, 1989) ("[b]ecause this Office does not have the authority of a court or other fact-finding body, we are not able, in a legal opinion, to adjudicate or investigate factual questions.")

² "Public safety agent" means a functional agency which provides fire fighting, law enforcement, medical, or other emergency services." S.C. Code Ann. § 23-47-10(26) (1976 Code, as amended).

³ A local government seeking to impose a fee for its 911 system is required to "submit to the Revenue and Fiscal Affairs Office, a 911 system plan for review and approval." S.C. Code Ann. § 23-47-30 (1976 Code, as amended).

23-47-40(A), 23-47-50 (1976 Code, as amended). 911 charges are also collected from subscribers and prepaid consumers of wireless service, as well as from subscribers of VoIP (Voice over Internet Protocol). See S.C. Code Ann. §§ 23-47-50; 23-47-68; 23-47-67 (1976 Code, as amended). The 911 charges are collected by the providers and suppliers of the telephone, wireless, and VoIP service.

The State, any of its political subdivisions, or an intergovernmental agency are prohibited from requiring any service provider to “impose, collect, or remit a tax, fee, surcharge, or other charge for 911 funding purposes other than the 911 charges” set forth in the Act. S.C. Code Ann. § 23-47-69 (1976 Code, as amended). It is well settled that the title or caption of an act may be considered to aid in the construction of a statute and to show the intent of the Legislature. Lindsay v. Southern Farm Bureau Cas. Ins. Co., 258 S.C. 272, 188 S.E.2d 374 (1972); University of S.C. v. Elliott, 248 S.C. 218, 149 S.E.2d 433 (1966). According to the title of the act enacting section 23-47-69, the statute was added “so as to limit the charges that may be imposed for 911 service.” 2010 S.C. Acts 135.

In a prior opinion, we considered whether the free telephone service offered by SafeLink Wireless service⁴ to low-income recipients was subject to 911 charges. See Op. S.C. Atty. Gen., 2011 WL 5304075 (Oct. 10, 2011). In our analysis, we discussed an opinion of the Tennessee Attorney General, Opinion 09-87 (May 18, 2009), because “Tennessee’s emergency telephone service charge statute is functionally identical to South Carolina’s E911 statute, in that fees are imposed on wireless subscribers billed retrospectively as well as on prepaid customers.” Id. The Tennessee Attorney General “concluded that liability for the E911 charge is tied to the payment for the service and is implicitly limited to those who must make such payments.” We noted that “[t]he Tennessee statute, just like the South Carolina E911 statute, provides no mechanism for payment of the E911 charge by someone who is neither charged nor billed for their wireless service.” Id. Consequently, we determined:

While SafeLink program participants may use the emergency telephone service, such participants would not be considered “subscribers” or “prepaid customers” within the context of S.C. Code § 23-47-50 or S.C. Code § 23-47-68. Both S.C. Code § 23-47-50 and S.C. Code § 23-47-68 indicate that the 911 charge is associated with the subscribers or prepaid wireless customers, not persons to whom a free phone is supplied.

Id.

Based on the Act and our prior opinion, we do not believe that a county can charge a municipality in its territory a monthly fee to fund its 911 system. The Act only provides for

⁴ “SafeLink Wireless service is provided completely free to qualifying low-income citizens of South Carolina and is subsidized in its entirety by the federal Universal Service Fund.” Op. S.C. Atty. Gen., 2011 WL 5304075 (Oct. 10, 2011).

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payment of 911 charges by subscribers of telephone, wireless, and VoIP service, as well as by prepaid consumers of wireless service. As we discussed in our prior opinion, liability for the 911 charge is tied to payment for service and is implicitly limited to those who make such payments. Additionally, the Act makes clear that charges for 911 service are limited to those provided for in the Act, and that a political subdivision, such as a county, is prohibited from collecting any additional 911 charges.

CONCLUSION

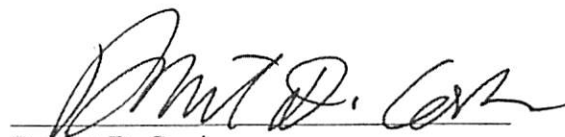
It is our opinion that a county cannot charge a municipality in its territory a monthly fee to fund its 911 system. However, such a determination is highly fact-specific and cannot be undertaken by this Office in an opinion. For this reason, we can only discuss the applicable law in the abstract here. We suggest that the proper venue for a resolution of this question may be in the courts.

Sincerely,



Elinor V. Lister
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General