



STATE OF IDAHO

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ATTORNEY GENERAL

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April 26, 1990

Clifford T. Hayes  
Chief of Police  
City of Post Falls  
P. O. Box 937  
Post Falls, ID 83854

RE: EMERGENCY COMMUNICATIONS ACT  
ATTORNEY GENERAL REFERENCE NO. 8041

Dear Chief Hayes:

In your letter of April 5, 1990, you ask two questions concerning the Emergency Communications Act (hereafter "Act") found at Idaho Code §§ 31-4801, et seq. Since 1982, the city of Post Falls, the Post Falls Fire Protection District and the Post Falls Ambulance District have operated a joint emergency communications system. With the adoption of the Act, your question restated is whether your particular service area is entitled to the fees generated by the area if the county adopts a county-wide system pursuant to the Act.

Idaho Code § 31-4807 disposes of this question and states in full as follows:

31-4807. Right to fee not affected by nonservice. -- All governmental entities within the county that have an already established emergency communications system using 911 call access, upon resolution duly adopted and approved and presented to the joint powers board or in their absence to the board of county commissioners, may ask that

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their existing emergency communication system area be excluded and such area shall be excluded from the county-wide emergency communications service but such exclusion shall not affect the right of the board of county commissioners to levy the fees as herein provided. No city or other agency shall establish an individual emergency communication system once a county-wide system as provided in this chapter has been adopted by the board of county commissioners. Whenever an area is excluded pursuant to this section, the board of county commissioners shall remit to the excluded entity one hundred percent (100%) of the fees collected in the excluded area as provided pursuant to this chapter. Any area excluded pursuant to this section may be subsequently included upon resolution duly adopted and approved and presented to the joint powers board or, in their absence, to the board of county commissioners. [Emphasis added.]

As indicated in the statute, your existing service area is entitled to 100% of the fees generated by the phones in your area if a county-wide system is adopted. Furthermore, § 31-4810 provides that you may continue to operate your service area even though the county adopts a county-wide system. This is true for all systems in operation prior to July 1, 1987.

Your second question concerns the amendments to the Act made by the 1990 Centennial Legislature in Senate Bill 1576. You ask whether the new language found at Idaho Code § 31-4808(2) requires consolidation of areas existing prior to July 1, 1987. This new language states as follows:

(2) If, after the formation of any 911 service area of less than county-wide extent, the voters of the county approve 911 service for the entire county, the newly formed county-wide 911 service area shall assume all of the assets and liabilities of all 911 service areas existing in that county at the time of formation of the county-wide system. Existing 911 service areas shall have two (2) years from the date of the county-wide election to merge into the county-wide consolidated emergency communications system.

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The Statement of Purpose for Senate Bill No. 1576 clearly states that the purpose of the amendments to the Act is to provide for the establishment of service areas within a county "only after it is determined that a county-wide 911 system cannot be created." [Emphasis in the original.] The purpose of the amendments was not to require merger of those systems created prior to July 1, 1987. In fact, the statutes which provide for continued operation of these 911 service areas were not affected by the amendments to the Act. Thus, the only conclusion that can be reached in these circumstances is that the new language affects only those systems created after July 1, 1987, and that prior existing systems are not required to merge with the county.

Specifically, your service area, in operation since 1982, continues to operate as before. Further, your area is entitled to 100 % of the fees generated by the phones in your area if the county adopts a county-wide system. Finally, no merger is required of your service area under the existing Act or 1990 amendments until such time that decision is made by your joint powers board.

I hope this information has been helpful. If you have any questions, please do not hesitate to contact me.

This letter is provided to assist you. The response is an informal and unofficial expression of the views of this office based on the research of the author.

Sincerely,



DANIEL G. CHADWICK  
Chief, Intergovernmental  
Affairs Division

DGC/tg

cc: Charles B. Lempeis  
Bill Jarocki, AIC  
Chuck Holden, IAC  
Kootenai County Commission