

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2510

By: Williams

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 2813 and 2814, as amended by Section 1, Chapter 67, O.S.L. 1993 (63 O.S. Supp. 1993, Section 2814), which relate to the Nine-One-One Emergency Number Act; adding definitions; stating participation options of governing bodies; stating the effect of regional plans on existing services; creating the Advisory Commission on Emergency Telephone Service; providing for membership of Commission; providing for terms of members; providing for vacancies on the Commission; providing for appointment of chairperson; providing for travel expenses of members; providing for staffing; stating powers and duties of the Commission; requiring the development of regional plans by each regional planning commission; providing criteria for each plan; requiring submission of regional plans to the Advisory Commission; providing for procedure if plan is disapproved; providing for allocation of money upon approval of plan; providing for optional participation in the plan; providing for imposition of an emergency telephone fee; stating amount of such fee; providing for collection of such fee;

providing for the imposition of a fee on certain intrastate service; stating amount of such fee; providing for allocation of such fee; authorizing use of certain amount of fee for the Advisory Commission; stating customer liability for fees; providing for collection of fees by service provider; authorizing a collection procedure for fees; prohibiting disconnection of service for nonpayment of fees; authorizing retention of certain amount for administration by service provider; creating the Emergency Telephone Service Revolving Fund; stating purpose of and procedures for such fund; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 2813, is amended to read as follows:

Section 2813. As used in the Nine-One-One Emergency Number Act, Section 2811 et seq. of this title, unless the context otherwise requires:

1. "Advisory commission" means the Advisory Commission on Emergency Telephone Service;

2. "Emergency telephone service" means any telephone system utilizing a three-digit number, nine-one-one (911), for reporting an emergency to the appropriate public agency providing law enforcement, fire, medical or other emergency services, including ancillary communications systems and personnel necessary to pass the

reported emergency to the appropriate emergency service and personnel;

3. "Emergency communication district" means a public agency or group of agencies acting jointly which has been providing emergency telephone service under the Nine-One-One Emergency Number Act prior to the effective date of this act or have voted to provide emergency telephone service prior to the effective date of this act;

~~2.~~ 4. "Emergency telephone fee" means a fee to finance the operation of emergency telephone service;

~~3.~~ 5. "Governing body" means the board of county commissioners of a county, the city council or other governing body of a municipality, or a combination of such boards, councils or other municipal governing bodies;

~~4.~~ 6. "Intrastate long distance service provider" means a telecommunications carrier providing telecommunications service in a local exchange service area under a certificate issued by the Corporation Commission;

7. "Local exchange telephone company" means any company providing exchange telephone services to any service user in this state;

~~5.~~ 8. "Person" means any service user, including but not limited to, any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, private corporation, whether organized for profit or not, fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, the United States of America, the state, any political subdivision of the state, or any federal or state agency, department, commission, board or bureau;

~~6.~~ 9. "Public agency" means any city, town, county, municipal corporation, public district, public trust or public authority located within this state which provides or has authority to provide

fire fighting, law enforcement, ambulance, emergency medical or other emergency services;

7. 10. "Regional planning commission" means a substate planning district which has as its primary purpose joint planning for units of local government and consists of Grand Gateway Economic Development Association (which includes the following counties: Craig, Delaware, Mayes, Nowata, Ottawa, Rogers and Washington), Eastern Oklahoma Development District (which includes the following counties: Adair, Cherokee, McIntosh, Muskogee, Okmulgee, Sequoyah and Wagoner), Kiamichi Economic Development District of Oklahoma (which includes the following counties: Choctaw, Haskell, Latimer, Leflore, McCurtain, Pittsburg and Pushmataha), Southern Oklahoma Development Association (which includes the following counties: Atoka, Bryan, Carter, Coal, Garvin, Johnston, Love, Marshall, Murray and Ponotoc), Central Oklahoma Economic Development District (which includes the following counties: Hughes, Lincoln, Okfuskee, Pawnee, Payne, Pottawatomie and Seminole), Indian Nations Council of Governments (which includes the following counties: Creek, Osage and Tulsa), Northern Oklahoma Economic Development Association (which includes the following counties: Alfalfa, Blaine, Garfield, Grant, Kay, Kingfisher, Major and Noble), Association of Central Oklahoma Governments (which includes the following counties: Canadian, Cleveland, Logan and Oklahoma), Association of Southern Central Oklahoma Governments (which includes the following counties: Caddo, Comanche, Cotton, Grady, Jefferson, McClain, Stephens and Tillman), South Western Oklahoma Development Association (which includes the following counties: Beckham, Custer, Greer, Harmon, Jackson, Kiowa, Roger Mills and Washita), and Oklahoma Economic Development Association (which includes the following counties: Beaver, Cimarron, Dewey, Ellis, Harper, Texas, Woods and Woodward).

11. "Service user" means any person who is provided exchange telephone service in this state; and

~~8.~~ 12. "Tariff rate" means the rate or rates billed by a local exchange telephone company stated in tariffs applicable for such company, as approved by the Oklahoma Corporation Commission, which represent the recurring charges of such local exchange telephone company for exchange telephone service or its equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 2814, as amended by Section 1, Chapter 67, O.S.L. 1993 (63 O.S. Supp. 1993, Section 2814), is amended to read as follows:

Section 2814. A. In addition to other powers for the protection of the public health, a governing body may provide for the operation of an emergency telephone service and may impose an emergency telephone fee for such service in areas, subject to the jurisdiction of the governing body, for which emergency telephone service has been contracted. The governing body may provide for the operation of an emergency telephone service under the provisions of this section and Section 2815 of this title or under the provisions of Sections 3 through 12 of this act. The governing body may do such other acts as are necessary for the protection and preservation of the public health if necessary for the operation of the emergency telephone system. The governing body is hereby authorized, by ordinance in the case of municipalities and by resolution in the case of counties, to impose such fee in an amount not to exceed five percent (5%) during the first year of the fee and not to exceed three percent (3%) in any year thereafter of the tariff rate in areas subject to the jurisdiction of the governing body for which emergency telephone service has been contracted; provided, that after the first year of operation when a governing body determines there exists a need for ancillary communications systems necessary to pass the reported emergency to the appropriate emergency service and personnel, the governing body by ordinance or resolution may restore such fee in an amount not to exceed five percent (5%) for

such an additional time as is needed to purchase said ancillary communications equipment; provided, the electors of a county or municipality may vote to impose a fee of up to five percent (5%) of the tariff rate in any year or years after the first year of the fee; and provided that any such fee imposed by a county shall not apply to any portion of the county located within the boundaries of a municipality imposing an emergency telephone fee pursuant to the provisions of Section 2811 et seq. of this title; and provided further, that any such fee imposed by the electors of a county having a population of less than thirty thousand (30,000) or municipality having a population of less than thirty thousand (30,000) shall remain as such until a new vote of the electors of such county or municipality is conducted in the manner for which such election was conducted to impose such fee. The ordinance or resolution shall be effective sixty (60) days after its publication unless a later date is specified in the ordinance or resolution, or unless the adoption of the ordinance or resolution is made subject to an election called pursuant to the provisions of subsection B of this section, in which case the ordinance or resolution shall be effective upon certification of the election results by the county election board.

B. Within sixty (60) days of the publication of a resolution by a county adopted pursuant to subsection A of this section, there may be filed with the county election board of the county a petition signed by not less than three percent (3%) of the registered voters of the county. Within sixty (60) days of publication of an ordinance adopted by a city pursuant to subsection A of this section there may be filed with the county election board of the county in which the city is located a petition signed by not less than three percent (3%) of the total number of votes cast in the next preceding election of the city. Either of such petitions may request that the question of the installation and operation of emergency telephone

service and imposition of a fee therefor be submitted to the qualified voters of the county or the city. Upon determination of the sufficiency of such petition and certification thereof by the county election board, the proposition shall be submitted to the qualified voters of the county or city not less than sixty (60) days following the certification of such petition. In the alternative, the governing body publishing the resolution or ordinance may, upon its own initiative, call an election to submit the question of the installation and operation of emergency telephone service and imposition of the fee therefor to the qualified voters of the county or city.

C. If a majority of the votes cast at the election provided pursuant to subsection B of this section are for the installation and operation of emergency telephone service and imposition of a fee therefor the governing body may provide for the installation and operation of such service and impose such fee. The fee provided pursuant to the provisions of subsection A of this section and the resolution or ordinance establishing the fee shall become effective.

D. The fee provided pursuant to the provisions of subsection A of this section may be imposed for a period not to exceed three (3) years after which the governing body may renew the fee in an amount not to exceed three percent (3%) of the tariff rate for no longer than three (3) years at a time, using the procedure provided in this section provided, however, that any such fee imposed by the electors of a county having a population of less than thirty thousand (30,000) or municipality having a population of less than thirty thousand (30,000) shall remain as such until a new vote of the electors of such county or municipality is conducted in the manner for which such election was conducted to impose such fee. The proceeds of the fee shall be utilized to pay for the operation of emergency telephone service as specified in this section, and may be collected at any time subsequent to execution of a contract with the

provider of such service at the discretion of the governing body. Collection of such fee may begin at any time if an existing emergency telephone service is already operative, otherwise the fee shall not begin prior to contracting for the emergency telephone service.

E. The tariff rate used for initial calculation of the emergency telephone service fee shall remain static for the purpose of calculating future fees for emergency telephone service. Therefore, future rate changes for emergency telephone service shall be stated as a percentage of the initial tariff rate.

F. The emergency telephone fee shall be imposed only upon the amount received from the tariff for exchange telephone service or its equivalent. No such fee shall be imposed upon more than one hundred exchange access lines or their equivalent per person per location.

G. Every billed service user shall be liable for any fee imposed pursuant to this section until it has been paid to the local exchange telephone company.

H. The duty to collect any fee imposed pursuant to the authority of the Nine-One-One Emergency Number Act, Section 2811 et seq. of this title, from a service user shall commence at such time as specified by the governing body. Fees imposed pursuant to the authority of this section and that are required to be collected by the local exchange telephone company shall be added to and may be stated separately in the billings to the service user.

I. The local exchange telephone company shall have no obligation to take any legal action to enforce the collection of any fee imposed pursuant to authority of this section, however, should any service user tender a payment insufficient to satisfy all charges, tariffs, fees and taxes for exchange telephone service, the amount tendered shall be credited to the emergency telephone fee in the same manner as other taxes and fees. The local exchange

telephone company shall annually provide the governing body with a list of amounts uncollected along with the names and addresses of those service users which carry a balance that can be determined by the local exchange telephone company to be nonpayment of any fee imposed pursuant to the authority of this section.

J. Any fee imposed pursuant to the authority provided by this section shall be collected insofar as practicable at the same time as, and along with, the charges for exchange telephone service in accordance with the regular billing practice of the local exchange telephone service. The tariff rates determined by or stated in the billing of the local exchange telephone company shall be presumed to be correct if such charges were made in accordance with the business practices of the local exchange telephone company. The presumption may be rebutted by evidence which establishes that an incorrect tariff rate was charged.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided, Sections 3 through 12 of this act shall not apply to or affect the existence or operation of an emergency communication district in existence on the effective date of this act or prevent the addition of territory to the area served by an existing emergency telephone system.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created until July 1, 2000, in accordance with the Oklahoma Sunset Law, the "Advisory Commission on State Emergency Communications". The Commission shall be composed of thirteen (13) members as follows:

1. The following members appointed by the Governor:

- a. two members who represent two local exchange carriers that serve the most local access lines in the state,
- b. one member, who is a member of the governing body of a municipality, selected from a list of nominees provided by a state association representing municipal governments,
- c. one member, who is a county commissioner, selected from a list of nominees provided by a state association representing county governments, and
- d. one member who is a director of an emergency telephone system;

2. Two members appointed by the Speaker of the House of Representatives;

3. Two members appointed by the President Pro Tempore of the Senate;

4. The Commissioner of the State Department of Health, or his or her designee;

5. The Commissioner of the Department of Public Safety, or his or her designee;

6. The executive director of an association which represents regional counselors in Oklahoma, or his or her designee; and

7. The executive director of the Oklahoma Advisory Commission on Intergovernmental Relations or his or her designee.

B. Appointments to the Advisory Commission shall be made by October 1, 1994. Members of the Advisory Commission shall serve staggered terms of six (6) years with the terms of four (4) members expiring on September 1 of each odd-numbered year.

C. A vacancy in an appointed position on the Advisory Commission shall be filled in the same manner as the previous member.

D. The Advisory Commission shall appoint a chairperson from among its members at the first meeting of the Commission. A

majority of members of the Advisory Commission shall constitute a quorum. The Governor shall call the first meeting of the Advisory Commission.

E. Members of the Advisory Commission shall be reimbursed for their necessary travel expenses in performance of their duties in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

F. The Advisory Commission may employ persons as necessary to carry out its functions.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Advisory Commission of State Emergency Communications shall:

1. Administer the implementation of emergency telephone service on a statewide basis;

2. On or before September 1, 1995, develop minimum performance standards for equipment and operation of a nine-one-one (911) emergency telephone service to be followed in developing regional plans by regional planning commissions including automatic number identification by which a telephone number of a caller is automatically identified at the point receiving the call and any other features the Advisory Commission considers appropriate;

3. Examine and approve or disapprove regional plans as provided in Section 7 of this act; and

4. Allocate money to prepare and operate regional plans as provided in Sections 9 and 10 of this act.

5. Implement nine-one-one (911) emergency service for the entire state by September 1, 1997.

B. The Advisory Commission shall ensure that before January 1, 1996, all of the state is covered by emergency telephone service.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. On or before September 1, 1996, each regional planning commission shall develop a plan for the establishment and operation of emergency telephone service throughout the region that the Commission serves. The service shall meet the standards established by the Advisory Commission on State Emergency Communications.

B. The plan shall include a description of how the service is to be administered. The service may be administered by a public agency or by any appropriate means as determined by the regional planning commission.

C. A regional plan shall include a description of how money allocated to the region under this act is to be allocated in the region.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Each regional planning commission shall submit a regional plan to the Advisory Commission on State Emergency Communications for approval or disapproval.

B. In making its determination, the Advisory Commission shall consider whether the plan satisfies the standards established by the Commission, the cost and effectiveness of the plan, and the appropriateness of the plan in the establishment of statewide emergency telephone service.

C. If the Advisory Commission disapproves the plan, it shall specify the reasons for disapproval and set a deadline for submission of a modified plan.

D. If the Advisory Commission approves the plan, it shall allocate to the region from the money collected under Sections 9 and 10 of this act the amount that the Advisory Commission considers

appropriate to operate an emergency telephone system in the region according to the plan.

E. A regional plan may be amended according to procedure determined by the Advisory Commission.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

On approval by the Advisory Commission on State Emergency Communications, an existing emergency communication district may choose to participate in the regional plan applicable to the regional planning commission region in which the public agency is located. The public agency may choose to participate by resolution of its governing body or by adoption of an ordinance. Following the adoption of the resolution or ordinance and approval by the Advisory Commission, the regional planning commission shall amend the regional plan to take into account the participation of the existing emergency communication district.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this act, the Advisory Commission on State Emergency Communication shall impose a nine-one-one (911) emergency service fee on each local exchange access line or equivalent local exchange access line, including lines of customers in an area served by an emergency communications district participating in the applicable regional plan. The fee may not be imposed on a line to coin-operated public telephone equipment or to public telephone equipment operated by coin or by card reader. For purposes of this section, the Advisory Commission shall determine what constitutes an equivalent local exchange access line.

B. The amount of the fee may not exceed five percent (5%) of the monthly fee for a local exchange access line or equivalent local exchange access line.

C. The Advisory Commission may set the fee in a different amount in each regional planning commission region based on the cost of providing emergency telephone service to each region.

D. The fee shall not apply to the territory of any public agency not participating in the applicable regional plan. A customer in an area served by an emergency telephone service operated by a public agency not participating in the regional plan may not be charged a fee under this section. Money collected under this section may not be allocated to an area not participating in the applicable regional plan.

E. A local exchange telephone company shall collect the fees imposed on its customers under this section. Not later than sixty (60) days after the last day of the month in which the fees are collected, the local exchange telephone company shall deliver the fees to the Advisory Commission or other public agency designated by the Advisory Commission.

F. The Advisory Commission or designated public agency shall distribute the fees to the regional planning commissions or public agencies in the region for use in providing emergency telephone service.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. In addition to the nine-one-one (911) emergency service fee imposed under Section 9 of this act, the Advisory Commission on State Emergency Communications shall impose a nine-one-one (911) equalization surcharge on each customer receiving intrastate long-distance service, including customers in an area served by an

emergency service operated by a public agency, even if the area is not participating in the regional plan.

B. The amount of the surcharge may not exceed five percent (5%) of the tariff rate charges for intrastate long-distance service, as defined by the Commission.

C. An intrastate long-distance service provider shall collect the surcharge imposed on its customers under this section and shall deliver the fee to the Advisory Commission not later than sixty (60) days after the last day of the month in which the surcharges are collected.

D. The Advisory Commission shall allocate the surcharges to each regional planning commission or other designated public agency for use in carrying out the regional plans provided for by this act. The allocation to the regional planning commissions are not required to be equal, but shall be made to carry out the policy of this act to implement nine-one-one (911) emergency telephone service statewide.

E. The Advisory Commission may retain from the surcharge an amount not to exceed One Hundred Thousand Dollars (\$100,000.00) necessary for the Commission to carry out its duties under this act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.9 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A customer on which the nine-one-one (911) emergency service fee or nine-one-one (911) equalization surcharge is imposed under this act is liable for the fee or surcharge in the same manner as the customer is liable for the charges for services provided by the local exchange telephone company or intrastate long distance service provider. The company or service provider shall collect the fees and surcharges in the same manner it collects those charges for service, except that the telephone company or service provider is not required to take legal action to enforce the collection of the

fee or surcharge. The fees and surcharges shall be stated separately on the bill of the customer.

B. Each regional planning commission shall establish collection procedures and recover the cost of collection from the customer liable for the fee plus interest on the delinquent amount, not to exceed twelve percent (12%) beginning on the date the fee or surcharge became due.

C. A telephone company or service provider may not disconnect services for nonpayment of a fee imposed under this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2818.10 of Title 63, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Advisory Commission to be designated the "Emergency Telephone Service Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of monies received by the Advisory Commission from fees charged for emergency telephone service. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Advisory Commission for the furtherance of its duties. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 13. This act shall become effective July 1, 1994.

SECTION 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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