

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1382

By: Voskuhl

AS INTRODUCEDAn 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. 1994, Section 2814), which relate to the Nine-One-One Emergency Number Act; adding definitions; modifying definitions; stating participation options of governing bodies; modifying calculation of future fees for emergency telephone service; requiring certain participation; stating the effect of regional plans on existing services; creating the Advisory Commission on State Emergency Communications; 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; placing Commission and employees under Merit System; requiring Commission to promulgate rules; 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 distribution of money upon approval of plan; providing for distribution of money for development of plans; providing for allocation of additional fees; providing for optional participation in the plan; providing for imposition of an emergency telephone fee; stating amount of such fee; providing for application of such fee to certain customers; providing for collection of such fee; providing

for distribution 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; 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 has voted or petitioned to vote

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

~~5.~~ 7. "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.~~ 8. "Public agency" means any city, town, county, municipal corporation, public district, public trust ~~or~~, public authority, or entity formed pursuant to the Interlocal Cooperation Act located within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services;

~~7.~~ 9. "Regional planning commission" means an entity formed pursuant to the Interlocal Cooperation Act, or a public trust 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 Authority (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);

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

~~8.~~ 11. "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. 1994, 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. A governing body which has imposed an emergency telephone fee or has petitioned to vote on an emergency telephone fee for the operation of an emergency telephone service on or before July 1, 1995, may operate the service under the provisions of this section and Section 2815 of this title or under the provisions of Sections 3 through 11 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, except that changes in the tariff rate resulting from the implementation of expanded local calling scopes may be used to calculate future fees. 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:

Any nine-one-one (911) emergency service system put into operation after July 1, 1995, shall operate under the provisions of Sections 3 through 11 of this act. Except as otherwise provided, Sections 3 through 11 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 communication district.

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, 2001, 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. one member who represents the local exchange carrier which serves the most local access lines in the state,
- b. one member who represents an independent telephone company doing business in the state,
- c. 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,
- d. one member who is a county commissioner, selected from a list of nominees provided by a state association representing county governments, and
- e. one member who is a director of an emergency telephone system;

2. Two members appointed by the Speaker of the House of Representatives from a list of at least four nominees provided by the Oklahoma Association of Regional Councils;

3. Two members appointed by the President Pro Tempore of the Senate from a list of at least four nominees provided by the Oklahoma Association of Regional Councils;

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 chair of the executive director's board of the Oklahoma Association of Regional Councils, or his or her designee; and

7. A local government representative from the Oklahoma Advisory Commission on Intergovernmental Relations.

B. Appointments to the Advisory Commission shall be made by October 1, 1995. Members of the Advisory Commission shall serve staggered terms of six (6) years with the terms of four 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.

F. The Advisory Commission may employ persons as necessary to carry out its functions. The Commission shall be a Merit System agency. Each employee shall be subject to the Merit System except for those employees whose positions are exempt under Section 840-5.5 of Title 74 of the Oklahoma Statutes.

G. The Advisory Commission shall adopt and promulgate rules as necessary and appropriate to carry out the duties and responsibilities of the Commission.

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:

The Advisory Commission of State Emergency Communications shall:

1. Administer the implementation of emergency telephone service on a statewide basis and oversee each regional plan developed by each regional planning commission;

2. On or before September 1, 1996, 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;

4. Assess a nine-one-one (911) emergency service fee as provided in Section 9 of this act and any other fee as authorized. The fees collected shall be distributed to the regional planning commissions and shall be used for planning, development and implementation of statewide nine-one-one (911) emergency telephone service; and

5. Develop a timetable to begin implementation of nine-one-one (911) emergency service for the entire state by September 1, 1998, subject to the availability of appropriate telephone central office facilities.

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, 1997, each regional planning commission shall develop a plan for the development, implementation 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 to the nine-one-one (911) emergency service plan for 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 work program and 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. The Advisory Commission, upon approval of the work program for the development of the regional plan, shall distribute to the region from fees collected under Section 9 of this act, the necessary amount of money collected from that region, less any administrative cost of the Advisory Commission, for development of the regional plan.

The Advisory Commission, upon approval of the plan, shall distribute to the region from the fees collected under Section 9 of this act the amount of money collected from that region, less any administrative cost of the Advisory Commission, for development, implementation and operation of the emergency telephone system in the region according to the plan. Any fees other than the fees assessed on exchange access lines which are authorized and collected by the Advisory Commission shall be allocated to any of the regions by the Commission based on demonstrated need.

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, a public agency with 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 by its governing body, and by a vote of the people affected if the emergency telephone service and imposition of a tax therefor was originally implemented by a vote of the people and if the cost of the emergency telephone service increases through participation in the regional plan. Following the adoption of the resolution or ordinance and a vote of the people if applicable, 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. Beginning October 1, 1995, except as otherwise provided by this act, there shall be imposed by the Advisory Commission on State Emergency Communication a nine-one-one (911) emergency service fee on every local exchange access line in each region, including lines of customers in an area served by an emergency communications district participating in the applicable regional plan. The fee shall not be imposed on lines to coin-operated public telephone equipment and to public telephone equipment operated by coin or by card reader. The amount of the fee shall be five percent (5%) of the tariff rate for a local exchange access line.

B. 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.

C. 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.

D. 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. The amount of funds distributed to each region shall be equal to the amount collected from that region, less any administrative cost of the Advisory Commission.

E. The Advisory Commission may retain from the fees collected under this section the amount necessary for the Commission to carry out its duties under this act; provided, the amount shall not exceed fifteen percent (15%) of the total fees collected under this section.

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. A customer on which the nine-one-one (911) emergency service fee is imposed under this act is liable for the fee in the same manner as the customer is liable for the charges for services provided by the local exchange telephone company. The company shall collect the fees in the same manner it collects those charges for

service, except that the telephone company is not required to take legal action to enforce the collection of the fee. The fees 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 ten percent (10%) per annum beginning on the date the fee or surcharge became due.

C. A telephone company may not disconnect services for nonpayment of a fee imposed 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:

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 as established by this act to provide statewide nine-one-one (911) emergency telephone service and in 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 12. This act shall become effective July 1, 1995.

SECTION 13. 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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